

Varughese Tr.

1 Varughese
 2 Nos. P90 through P95, marked for
 3 identification, this date.)
 4 Q. Let me show you as an exhibit that
 5 document. Would you look at that and tell me if
 6 you can identify it for me.
 7 A. This is the Mount Sinai Hospital
 8 resident's contract.
 9 Q. Is this the resident's contract that
 10 you signed in June of 2008, if you look at the
 11 last page?
 12 A. Yes.
 13 Q. Let me show you what we'll mark as
 14 Defendants' Exhibit 2.
 15 (Defendants' Exhibit 2, document
 16 headed "The Mount Sinai Hospital Resident's
 17 Contract," for the academic year July 1st,
 18 2009 to June 30, 2010, Bates Nos. D-36
 19 through D-42, marked for identification,
 20 this date.)
 21 Q. The same question Dr. Varughese. Do
 22 you recognize this document?
 23 A. Yes.
 24 Q. What is it?
 25 A. It's the Mount Sinai Hospital's
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1 Varughese
 2 resident's contract.
 3 Q. This is the one that you signed for
 4 the academic year July 1st, 2009 to June 30, 2010?
 5 A. I believe it is.
 6 Q. Let me show another document which
 7 we'll mark as Defendants' Exhibit 3.
 8 (Defendants' Exhibit 3, document
 9 headed "The Mount Sinai Hospital Resident's
 10 Contract," for the PGY-3 year July 1st, 2010
 11 until June 30, 2011, Bates Nos. P264 through
 12 P270, marked for identification, this date.)
 13 Q. I ask you again to take a look at it.
 14 Can you tell me what this document is?
 15 A. It's yet another Mount Sinai Hospital
 16 resident's contract.
 17 Q. And your signature is on the last
 18 page?
 19 A. Yes.
 20 Q. This is for your PGY-3 year 2010/2011?
 21 A. Yes.
 22 Q. Thank you.
 23 MR. McEVoy: And lastly, mark this as
 24 Exhibit 4.
 25 (Defendants' Exhibit 4, document
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1 Varughese
 2 headed "The Mount Sinai Hospital Resident's
 3 Contract," for the PGY-4 year July 1st, 2011
 4 until June 30, 2012, Bates Nos. P992 through
 5 P998, marked for identification, this date.)
 6 Q. The same question. Can you tell me
 7 what this document is?
 8 A. This is the Mount Sinai Hospital
 9 resident's contract.
 10 Q. And is your signature on the last
 11 page?
 12 A. Yes.
 13 Q. And this is the contract that you had
 14 for your PGY-4 year from 2011 to 2012?
 15 A. Yes, I believe it is.
 16 Q. OK. Doctor, you were a resident in
 17 the pathology department; is that correct?
 18 A. Correct.
 19 Q. I realize that your responsibilities
 20 may have changed from year to year, but generally
 21 what were your responsibilities as a pathology
 22 resident?
 23 A. It varied depending on the rotation or
 24 service that was being covered by myself.
 25 Q. So let's focus on the PGY-3 year, just
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1 Varughese
 2 picking one. What were your responsibilities
 3 during that year?
 4 A. Once again, it varied widely.
 5 Q. Tell me how they varied.
 6 A. With the service that I was on.
 7 Q. What services were you on?
 8 A. If I recall correctly, I believe I was
 9 on several months of surgical pathology at
 10 Elmhurst, Mount Sinai Medical Center, VA. That's
 11 the Veteran's Administrative Affairs Hospital. As
 12 well as I believe I'm on the clinical chemistry
 13 and perhaps a month of blood banking.
 14 Q. Blood banking?
 15 A. Blood banking. And I'm not certain
 16 now what the other. I would have to look at my
 17 schedule.
 18 Q. I understand. So in surgical
 19 pathology what were your job responsibilities?
 20 What did you do?
 21 A. That involved, surgical pathology
 22 involves prosecuting specimens which are removed
 23 from patients during surgery and submitting that
 24 for histological analysis, followed by reviewing
 25 of the histology under the microscope and then
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1 signing out the case with the attending
2 pathologist.

3 **Q.** Anything else that you did during the
4 surgical pathology service?

5 **A.** In a similar vein there is also
6 biopsies.

7 (Reporter asked witness to repeat.)

8 **Q.** Just so you understand, the court
9 reporter sometimes won't hear what somebody says
10 and they will say I didn't hear you. A lot of
11 times people think they want you to say something
12 more than that. They just want to know what it is
13 that you said because they didn't hear what you
14 said. OK?

15 **A.** Correct.

16 **Q.** You were saying in a similar vein
17 biopsies.

18 **A.** Correct.

19 **Q.** What about biopsies?

20 **A.** Biopsies are also tissue acquired from
21 the patient and that's not processed by the
22 resident, but we do review it histologically under
23 the micro -- we review it under the microscope for
24 histology and then sign out those cases as well.

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1 **Q.** Anything else? Any other job
2 responsibilities in surgical pathology?

3 **A.** Yes. At Mount Sinai Hospital I was
4 responsible for organizing the slides, the
5 paperwork, following on missing blocks, missing
6 slides and correcting or insuring correct gross
7 descriptions.

8 **Q.** I take it you're familiar with the
9 grossing of specimens?

10 **A.** Yes.

11 **Q.** How does that work?

12 MR. WRONKO: Form objection.

13 **Q.** When I ask you how does that work,
14 what's the process by which specimens are grossed?

15 **A.** It's simply examining the specimen
16 with your eye and making a determination of the
17 measurements, the size, sometimes the weight, and
18 making a note of any lesions that are there.

19 **Q.** So at Mount Sinai now, not at Elmhurst
20 or the VA, where is grossing of specimens done?

21 **A.** At Mount Sinai Hospital the grossing
22 of the specimens are done in what is known as the
23 grossing room.

24 **Q.** And where is the grossing room?

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1 **A.** It's on the 15th floor in the
2 Annenberg building.

3 **Q.** When you were grossing specimens in
4 the grossing room, where did the slides come from
5 How did you get them?

6 **A.** The slides were processed by the
7 histology staff in an adjacent lab and they had
8 several machines there that processed the blocks
9 that would be submitted overnight or for several
10 hours for -- and then it was embedded and then
11 further processed by the technicians.

12 **Q.** Would they then send the slide to you
13 or to the grossing room?

14 **A.** Yes. They would usually put the
15 slides in a box. We had boxes labeled with our
16 initials and last name, I believe, at this point
17 and it would be placed there.

18 **Q.** How did you know which specimens you
19 were supposed to review as opposed to one of your
20 colleagues was supposed to review?

21 **A.** It usually was determined by the cases
22 assigned to you, whether it is at the time that
23 you began your work for the day, by myself or by
24 the PA who was working. So that's...

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1 **Q.** Who would assign you the case?

2 **A.** As far as I know, there was not a
3 formal assignment of cases.

4 **Q.** So what types of specimens were being
5 grossed? And by that I mean did they fall into
6 categories? Were there breast specimens, prostate
7 specimens? What were the categories?

8 **A.** Yes, they did fall into a lot of
9 different categories. I believe at some point the
10 program tried to organize it according to category
11 and divide the group into I believe two groups.
12 So people would only gross specimens from, let's
13 say, the knee or bone and soft tissue specimens
14 and GI and then the other group, the group two,
15 would be responsible for specimens that were
16 removed, breast specimens or lung specimens.
17 Those were common things that we --

18 **Q.** When did that take place, that attempt
19 to categorize and set up two groups?

20 **A.** I am not sure now.

21 **Q.** What group were you in?

22 **A.** I'm not sure if I participated in the
23 group in that particular group assignment.

24 **Q.** Do you know why you didn't participate

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in that group assignment?

A. I believe there was a constant change of method of approaching grossing there. So it changed frequently.

Q. What role, if any, did the chief residents play in assigning grossing specimens to other residents?

MR. WRONKO: Form objection. You can answer.

A. They did not play any role as far as I knew.

Q. Now, when you completed grossing the specimen what was your responsibility then? What did you do after you were finished?

A. After finishing grossing just, you know, submitting the blocks, the tissue blocks, you submitted the specimen back into Formalin and in the properly labeled container and just put it for storage.

Q. Was there any report that you were supposed to generate or other paperwork that you were supposed to generate?

A. You're supposed to enter the blocks and enter the gross description.

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Q. What could the gross description be? What were the possible descriptions? Or give me examples of what the descriptions might be.

MR. WRONKO: Form objection. You can answer.

A. Gross description just is the measurement, like I mentioned before, weight, lesions, and the block submitted.

Q. And I think you said that you looked at the specimens visually.

A. Yes.

Q. Did you look at them under a microscope?

A. Usually we did have a magnifying glass we used on occasion if there was a -- for certain types of lesions we would use it and examine it under the microscope to see where the lesion was, and, um, but other than that, no. Gross specimens are not examined under microscope.

Q. And the magnifying glass is not a microscope, correct?

A. No.

Q. During your PGY-3 year who was or were the chief residents?

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A. During the PGY-3 year it was Kruti Maniar, Samuel McCash. Later in the year it was transitioned into Elizabeth Morency and Adrienne Jordan.

Q. Were Drs. Jordan and Morency the chief residents in your PGY-4 year?

A. Right, Morency was the PGY-4 year resident.

Q. Was Dr. Jordan a PGY-4 year as well?

A. Dr. Jordan was a PGY-3 year.

Q. She was a PGY-3.

A. Right.

Q. When was she the co-chief resident? What year of your residency was she the co-chief resident?

A. Well, I wasn't sure if she was co-chief resident until she has been referred to as such now. But OK, I was a fourth-year resident when she was one of the chief residents.

Q. When you were a third-year resident it was Dr. McCash and Kruti Maniar.

A. For the majority of that year.

Q. When did that change? And by your third year I assume we're talking about from July

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1st of 2010 to June 30th of 2011. That's your third year.

A. Correct.

Q. When did either Dr. McCash or Dr. Maniar stop being the chief resident during that period of time if you know?

A. I can't recall off the top of my head.

Q. OK. Did you know Dr. McCash prior to his becoming the chief resident in your third year?

A. Yes. He was a fellow resident in the program.

Q. I think we all know that at a certain point in time you had problems with Dr. McCash.

A. Right.

Q. And we'll get to that in a minute. And the first of them I understand was in -- are you OK?

A. Oh, yes.

Q. And the first of them I believe was in September of 2010; is that correct?

A. Yes. I believe that's correct.

Q. So before September 2010 during the, I guess the two years that you were both

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1 Varughese
 2 co-residents and prior to 2010 did you have any
 3 problems with Dr. McCash?
 4 A. Not particularly.
 5 Q. So tell me what happened in September
 6 2010 with you and Dr. McCash.
 7 A. Well, September 2010 he, um, started
 8 shouting at me in a conference room in a very
 9 loud, with a very loud voice and with sort of an
 10 intimidating demeanor.
 11 I'm sorry, can I correct that? Not
 12 sort of, with an intimidating demeanor. Can we go
 13 off the record for a second?
 14 Q. Sure.
 15 MR. McEVOY: Off the record.
 16 (Discussion off the record.)
 17 MR. McEVOY: So during an
 18 off-the-record discussion Dr. Varughese
 19 indicated she wanted to supplement her
 20 answer to my question of prior to September
 21 2010 did you have any problems with
 22 Dr. McCash.
 23 Q. Go ahead.
 24 A. Well, there were issues which I
 25 thought were minor ones at that time where he
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 2 wanted to dictate to me how I should answer call
 3 and why it was in my best interest as opposed to
 4 what I had suggested. And I believe that was a
 5 freedom that was allowed other residents in making
 6 their schedules and call schedules.
 7 Q. Did you raise those issues with
 8 anybody in the program, the program director or
 9 one of your attendings?
 10 A. At that time, I am not sure, I'm not
 11 sure if I did. Because I already had -- actually,
 12 I had multiple other issues with McCash before
 13 which I recall now. Can I supplement?
 14 Q. Absolutely.
 15 A. Well, in terms of my end of my second
 16 year going into third year there were some issues
 17 with the scheduling and I actually had to involve
 18 the former program director to ask him that my
 19 rotations and assignments be comparable to the
 20 remainder of my class and my peers because I was
 21 not being assigned to the correct rotations.
 22 Q. Who made the scheduling assignments?
 23 A. That's -- I'm not a hundred percent
 24 certain.
 25 Q. So I understand, and I'll ask you in a
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1 Varughese
 2 minute about the scheduling issues, but how is
 3 Dr. McCash involved in your scheduling problems?
 4 A. Oh, because --
 5 Q. At the end of your PGY-2 year which is
 6 what we're talking about.
 7 A. Well, I'm not sure if he is completely
 8 involved or if both chief residents or somebody
 9 else was making the schedules, because the
 10 schedules were made I believe originally by
 11 someone else and that person changed. So I wasn't
 12 sure what was happening that year in terms of the
 13 schedule making.
 14 Q. So you're talking about the schedule
 15 made at the end of your PGY-2 year for the
 16 beginning of your PGY-3 year; is that right?
 17 A. Correct.
 18 Q. And who did you raise the scheduling
 19 issues with?
 20 A. Well, I raised that with the former
 21 program director, Dr. Strauchen.
 22 Q. What was the issue that you raised
 23 with Dr. Strauchen?
 24 A. I simply informed Dr. Strauchen that
 25 my schedule was not up to par for the year of
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 2 training that I was going to go into and I would
 3 require exposure to particular fields to be
 4 relatively competent at the end of my four years
 5 of training.
 6 Q. And was your schedule adjusted?
 7 A. Yes.
 8 Q. And was it adjusted to your
 9 satisfaction?
 10 A. Yes, I believe it became more
 11 equitable.
 12 Q. So going back to September 2010, you
 13 had started telling me that in a conference room
 14 Dr. McCash was shouting at you in a loud voice and
 15 with intimidating demeanor; is that right?
 16 A. That's correct.
 17 Q. What else happened during this
 18 September 2010 incident with Dr. McCash? And to
 19 put a finer point on it, what did he say -- let me
 20 take a step back.
 21 Who was in this conference room? Was
 22 it just you and Dr. McCash?
 23 A. No.
 24 Q. Were there other people present?
 25 A. There were other people present.
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Varughese

Q. Were they other residents?

A. Um, yes.

Q. Were there other people, other physicians who weren't residents? Or putting it a different way, were they only for residents?

A. No, there were other people who were not residents.

Q. Why were all of you in the conference room? What was the purpose of gathering there?

A. Well, when the incident occurred they were not in the residents' room yet. I believe they were arriving for the conference that would take place at approximately 9 a.m. and 1 to 10 a.m.

Q. When you say the residents' room, what are you referring to?

A. I'm sorry, not the residents' room, the conference room. It is located not in Annenberg, but rather at the Icahn building, which is on the corner of 97th and Fifth? No, Madison.

Q. So there was a conference you say scheduled for 9 a.m.

(Witness nodded head up and down.)

Q. Yes? You can't nod your head.

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Varughese

A. Well, usually there are. It's an informal conference usually. It's called a CP Call Conference and it's a very informal event.

Q. And what's the purpose of the CP Call Conference?

A. It's just to discuss one or two interesting cases that occurred when you were on AP call.

Q. Who --

A. I'm sorry, CP call.

Q. Who attends the CP Call Conference?

A. It's attended by the clinical pathology attendings. They have a different department, and they would attend those, which included Dr. Pessin, Dr. Grace, Dr. Ramanathan, Dr. Perschke. Usually those were the attendees and supervisory positions.

Q. And I take it the residents as well.

A. The residents who were available or on CP conference/CP rotation would attend.

Q. So you said that the incident with Dr. McCash began prior to the start of this conference, correct?

A. Correct.

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Q. So tell me what Dr. McCash said to you. I understand you said he was yelling at you. So tell me what, if you remember, what he said, what you said.

A. Right. He just shouted at me to shut up repeatedly, then "shut your mouth." I believe he said, "You talk too much." And the rest I feel like I blocked it out almost, because it's rather painful.

Q. In your complaint, Dr. Varughese, you say that he also made comments to you that his tone was, quote, for her own good, unquote, that you were, quote, unfit professionally, unquote, and, quote, not qualified, unquote, for your position, and, quote, no one was teaching you, unquote and that you, quote, would never get a job, unquote, and, quote, no one would hire you, unquote. And you were, quote, lucky to be here, unquote.

Does that refresh your recollection as to other things Dr. McCash said during this confrontation or whatever it was?

A. At that confrontation I believe he did not say that at the initial, when he was shouting.

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Varughese

I believe he did not shout that at the meeting. It wasn't that...

Q. Do you know why or did he tell you why he was telling you to shut up or saying you were talking too much?

A. I believe he did later on when he, um, I believe he presented a case that day and following his presentation he, you know, I believe I was sitting at the desk and he walked past me and patted me on the shoulder and said, Oh, I would like to speak to you after this conference.

Q. So let's finish with what happened at the conference first. So when Dr. McCash says to you what you just said, "shut up," "you talk too much," did you say anything to him?

A. I was very shocked.

Q. And as far as you knew, this just sort of came out of the blue and he just said this. There was no prior discussion or disagreement between you of any kind?

A. Not to my knowledge. It was a Tuesday morning. There nothing I knew of.

Q. So then you said that after he made his presentation he kind of tapped you on the

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1 Varughese
2 shoulder and said I would like to talk to you
3 later, yes?
4 A. Yes.
5 Q. Did you talk to Dr. McCash after the
6 conference?
7 A. Yes, I did.
8 Q. Where did that conference take place?
9 A. It took place in the same conference
10 room.
11 Q. Were other people present or was it
12 just you and Dr. McCash?
13 A. It was just me and Dr. McCash.
14 Q. What did he say to you, what did you
15 say to him during this conversation?
16 A. He stated those things that you just
17 restated from the complaint. And I -- that's --
18 what I stated to him was, you know, just I'm just
19 trying to do my work. I don't know why you feel
20 like or you feel entitled to say these things to
21 me.
22 Q. Did he say to you why he was saying
23 the things? I won't repeat them, but the things
24 that you allege that he said?
25 A. He said he was saying it for my own

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1 Varughese
2 good and to help me.
3 Q. So any other discussion or
4 conversation between you and Dr. McCash during
5 this meeting that you had after the CP Call
6 Conference?
7 A. None at all. That was it. I just
8 walked out.
9 Q. So after this conversation or whatever
10 it was both during the conference or -- I'm sorry,
11 before the conference took place and where the
12 group was present and then after the conference,
13 just you and Dr. McCash, did you tell anybody at
14 Mount Sinai about this incident?
15 A. Well, I was in the hall and Dr. Pessin
16 was waiting for the elevator and I just, you know,
17 I didn't think she was in any way aware of what
18 happened in the conference room. So I just said,
19 you know -- I don't recall exactly what I said to
20 her.
21 Q. In substance, what did you say to her?
22 I know you don't remember the exact words, but
23 what was the substance of what you said to her?
24 And before we get there, just so we
25 have it on the record, who was Dr. Pessin at the

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1 Varughese
2 time?
3 A. She was I believe the acting interim
4 chair of the department.
5 Q. Of pathology.
6 A. Yes.
7 Q. So what did you say to Dr. Pessin
8 when you saw her after your conversation with
9 Dr. McCash?
10 A. I believe I did not inform her of what
11 happened. I just -- I believe I was just, you
12 know, just said hello.
13 Q. Did you tell anybody at Mount Sinai
14 about this, I'll use the word "incident," the
15 incident with Dr. McCash?
16 A. Yes, I did.
17 Q. Who did you tell?
18 A. I spoke to Dr. Lento the following
19 day.
20 Q. Who's Dr. Lento at the time?
21 A. He was a program director at that
22 time.
23 Q. The program director of the residency
24 program in pathology.
25 A. Correct.

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1 Varughese
2 Q. And where did you speak to Dr. Lento?
3 A. I spoke to him in the autopsy suite.
4 There's a small office, a suite.
5 Q. Was anybody else present?
6 A. Yes, Kruti Maniar was there.
7 Q. Anyone else?
8 A. No.
9 Q. And what did you say to Dr. Lento
10 during this meeting in the autopsy suite?
11 A. I just simply told him, you know, what
12 had happened and how I did not, you know,
13 appreciate McCash's behavior and there was no
14 place for it and I would like for him to intercede
15 at this point or intervene in some way that would
16 be productive.
17 Q. And what did Dr. Lento say?
18 A. He just said, I wasn't there. I don't
19 know. I don't know what happened. And he said,
20 Well, nobody really can corroborate that.
21 And I believe at that point Maniar was
22 there and she said, Well, you know, we discussed
23 this incident before and even McCash admits that
24 he was, you know, he lost his cool or temper.
25 Q. When Maniar said that we discussed

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1 Varughese
2 this incident before, before when?
3 A. I believe they had some sort of staff
4 meeting, the chief residents and --
5 Q. I assume that must have been between
6 the previous day and the day -- because you said
7 you met with Lento the next day, correct?
8 A. Yes, the next day.
9 Q. Did Dr. Lento say anything else?
10 A. He said that he would, um, at this
11 point he said that he would speak to Sam.
12 Q. Did he say anything else?
13 A. No. I don't recall.
14 Q. Did you say anything else?
15 A. No.
16 Q. Did Dr. Maniar say anything else?
17 A. No. I just assumed Dr. Lento would
18 follow up.
19 Q. And how long did the meeting last?
20 A. What?
21 Q. How long did the meeting last?
22 A. It was a while. It was about forty
23 minutes perhaps. I'm not sure.
24 Q. When you said that you wanted
25 Dr. Lento to intercede, did you tell him you what

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1 Varughese
2 wanted him to do in particular?
3 A. I did. I asked him to have a
4 mediation or, you know, have a discussion with
5 McCash present just to -- so I can understand if,
6 why he is motivated to behave the way he does
7 towards me.
8 Q. Did you have any further meetings or
9 discussions with Dr. Lento about the September
10 2010 incident?
11 A. I did.
12 Q. When was the next time you spoke to
13 Dr. Lento?
14 A. I believe I e-mailed him the following
15 day or something just to confirm that he knew that
16 I was serious regarding the issue and I would like
17 him to mediate or something of that nature.
18 Q. I will show you a document. I think
19 you know the drill by now. If you would take a
20 look at it while the reporter is marking it and
21 then I will ask you about it.
22 MR. McEVoy: Would you mark this as
23 Defendants' Exhibit 5.
24 (Defendants' Exhibit 5, e-mail dated
25 September 14, 2010 from Laura Varughese

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1 Varughese
2 numerous individuals, Bates No. P870, marked
3 for identification, this date.)
4 Q. Have you had a chance to look at that?
5 Yes?
6 A. Yes.
7 Q. Is this the e-mail you were just
8 referring to?
9 A. No.
10 Q. Is this an e-mail that you sent?
11 A. Yes.
12 Q. And it's an e-mail from you dated
13 Tuesday, September 14, 2010, at 10:34 p.m. to
14 Dr. Lento and several others, correct?
15 A. Right.
16 Q. And in this e-mail -- first, why did
17 you send this e-mail? Because this is the same
18 day as the incident, correct?
19 A. This is the same day as the incident.
20 I sent this e-mail because of McCash's continued
21 disdain and attitude towards me and generally for
22 my own concern for my, you know, well-being and
23 safety.
24 Q. Just so that we have the sequence
25 correct, there was the preconference yelling by

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1 Varughese
2 Dr. McCash, the postconference conversation with
3 Dr. McCash and then this e-mail?
4 A. Yes.
5 Q. And then after this e-mail you met
6 with Dr. Lento the next day.
7 A. Yes.
8 Q. So it says that you're saying in this
9 e-mail, quote, regarding a pattern of verbal abuse
10 experienced from various colleagues at Mount
11 Sinai.
12 Do you see that?
13 A. I do, yes.
14 Q. So other than Dr. McCash who, if
15 anyone, were you referring to as the other
16 colleagues?
17 A. Well, various employees that worked
18 within the Department of Pathology.
19 Q. I'm sorry. Say that again?
20 A. A number of employees who were
21 employed by the Department of Pathology.
22 Q. So who were they?
23 A. Yes, I mentioned a PA.
24 Q. Named Rob.
25 A. Rob.

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Varughese

Q. What's Rob's last name, do you know?

A. I believe it's Celantano.

Q. So other than Mr. Celantano and Dr. McCash, any other colleagues that you thought were verbally abusing you as of September 14, 2010?

A. Yes. There was one of my, well, I, well, one of the supervisors, one of the supervisory attendings and I believe even Dr. Schiller.

Q. Well, who was the supervisory attending?

A. John Fallon.

Q. Fallon?

A. Fallon.

Q. Is that the supervisory attending? The supervisory attending that you just referred to, that's Dr. Fallon.

A. Right.

Q. And Dr. Schiller, who was Dr. Schiller in September of 2010?

A. September. I believe at that time he was the former chairman.

Q. Of pathology, correct?

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A. Correct.

Q. Anybody else?

A. Nothing stands out right now.

Q. And the PA, how did he verbally abuse you? What did he do?

A. Well, I was simply working next to him and I don't know what I said to him now. I believe it was just, I think I was on GYN rotation during my second year or -- I'm not quite sure what year. I believe it was the second year. And I simply asked him if he was busy or if he had time to help out before he left for the day, which is commonplace. And he got very upset and just sort of started flailing his arms and shouting at me.

Q. What did he say?

A. I think he just said I'm sick and tired of your B.S. and just, you know, I don't want to -- I hate working here. This place is horrible and just -- but just a lot of flailing of the arms. He is like a six-foot five tall person and he's sort of a little bit broad and it's just a little -- it's intimidating to have someone so tall and just shouting and flailing

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their arms around and that's what occurred.

Q. And did you report that incident to anybody?

A. I just simply -- I thought I should not report it because I didn't think he was going to really help at that time. So one of my colleagues was, um, I believe at that time she was a first year resident and she just got very concerned. So she reported it to I believe first Dr. Nagi and then to Dr. Schiller.

Q. Who was your colleague in the first year who reported it?

A. It was Jacqueline Hechtman.

Q. How did Dr. Fallon verbally abuse you? What did he do?

A. Well, I was on surgical pathology rotation and I was on the seventh floor of the Guggenheim building performing frozen sections, which are intraoperative consultations for surgery, when he called me to come upstairs to the 15th floor on Annenberg and when I arrived he had some slides, unlabeled slides and he said they were my cases that I had not labeled. So -- there was a label. It was written in pencil, but there

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wasn't a sticker.

So I assumed they were my slides because, I mean, I didn't have time to check, and I was like, well, OK, I'm sorry. Like I'll just take them and I'll label them, and but he was just very upset saying, you know, Well, these are not labeled. Nobody is labelling slides here.

And then -- he just got upset and then he had that, Oh, just take this tray out of my lap and go label them now. And I was like, excuse me. Don't take that. So I was just shocked and offended.

Q. Why were you offended?

A. Because he told me to take a tray of slides off his lap. I thought it was just highly inappropriate.

Q. What is the procedure for labelling slides?

A. It's simply just putting the last name, first initial, and the frozen section number.

Q. But you said that he seemed to be upset about the fact that there weren't stickers on the slide as opposed to however they had been

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1 labeled by you or someone else.

2 A. Right.

3 Q. Are they supposed to have stickers?

4 A. Yes, for official filing we need to
5 have a sticker on it. So the frozen section slide
6 labelling process went through I guess three
7 rounds of labelling: One with a written pencil
8 and number with a name and the number of frozen
9 section number, then your own sticker with the
10 frozen section number and the name and then the
11 block number. And then the third round when it
12 was officially filed they would put the final
13 sticker on it.

14 Q. Who puts the first sticker on, the one
15 that's in pencil?

16 A. I do.

17 Q. Who puts the second sticker on that
18 has the sticker label?

19 A. Right. I do that too.

20 Q. And the third one, the last one?

21 A. The third one is put by the staff, one
22 of the technicians.

23 Q. So other than this occasion that you
24 just described did Dr. Fallon verbally abuse you

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1 on any other occasion?

2 A. No.

3 Q. How did Dr. Schiller or when did
4 Dr. Schiller verbally abuse you? What did he do?

5 A. Well, this is my second year, and he,
6 um, he wanted me to meet with him out of the blue
7 when I was working. I'm not sure what I was doing
8 that day. I just -- his secretary came to me and
9 said, Oh, he wants to speak to you. I said, About
10 what? And so I went over and I spoke to him.

11 Q. What did he tell you he wanted to see
12 you about? What did he say?

13 A. He told me that he wanted to see me
14 about, you know, about my unhappiness. He said
15 that I didn't look happy. I wasn't smiling
16 enough. Like what's going on? So on.

17 I believe he did say something about,
18 you know, the way you -- if you're unhappy that's
19 part of who you are and it's sort of your DNA and
20 so on. I was -- once again, I was very shocked
21 and offended.

22 Q. Did Dr. Schiller say anything else
23 during this meeting?

24 A. Right. And he thought that, you know,

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1 oh, he also said that people were unhappy like
2 that, it's trouble and I feel like it's going to
3 be a lot of, you know, you're in trouble or we
4 don't want you to be in trouble.

5 I was just very sort of confused with
6 this line of logic, but I was -- I listened to him
7 and then he thought I should speak to someone and
8 then he wants a note and --

9 Q. You should speak to someone. Did he
10 say who you should speak to?

11 A. He said I should speak to a
12 psychiatrist or somebody. He wanted to know if I
13 was speaking to someone, you know, getting help.
14 I just said no. I mean, I didn't think I needed
15 help.

16 Q. And he wanted a note from who about
17 what?

18 A. He wanted a note saying that I'm happy
19 and -- I am not sure what he wanted a note from
20 and why. I did not feel like I had the need to
21 see anybody, but he wanted me to see someone and
22 get a note.

23 Q. And did Dr. Schiller say anything else
24 during this meeting?

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1 A. That's all I recall right now.

2 Q. And what did you say?

3 A. I was just like, Why do you think
4 that? And did anybody say anything to you to make
5 you think that I'm unhappy?

6 And he did not have, you know, he did
7 not say anything. He did not mention anybody, did
8 not say anything, and he just said, Just go, go
9 see somebody and go see a psychiatrist.

10 Q. Where did that meeting take place?

11 A. It took place in his office.

12 Q. Was anyone else present?

13 A. No.

14 Q. How long did it last?

15 A. I believe maybe like fifteen minutes,
16 ten, fifteen minutes.

17 Q. Were you unhappy at the time you met
18 with Dr. Schiller?

19 A. No.

20 Q. After that meeting did you speak to
21 anybody about what Dr. Schiller had said? I don't
22 mean did you go see a psychiatrist. I mean did
23 you talk to anybody at the hospital.

24 A. Yes, I did. I didn't talk to any of

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1 my colleagues because I felt like very
2 stigmatized. So I was afraid to say anything,
3 because I didn't want to have a label stating I'm
4 the official unhappy person. This is ridiculous.

5 **Q.** So who did you talk to?

6 **A.** I just talked to my family and friends
7 actually. I don't think I mentioned anything to
8 anybody.

9 **Q.** Did you have any other conversations
10 with Dr. Schiller about your -- I'll just call it
11 whether you were happy or not?

12 **A.** No, I was terrified of him and I chose
13 to avoid him if I can.

14 **Q.** Why were you offended by what
15 Dr. Schiller said to you?

16 **A.** Why? Because first he made
17 assumptions about my, you know, health. And I
18 have never had a conversation with him before
19 that. And for him to state that I'm unhappy and
20 he sees me not smiling seemed rather arbitrary as
21 an assessment, and...

22 **Q.** Were there any other occasions in
23 which Dr. Schiller verbally abused you?

24 **MR. WRONKO:** I'm sorry, do you mean
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1 prior to September 14, 2010?

2 **MR. McEVOY:** Yes, we're talking about
3 ever.

4 **MR. WRONKO:** Do you mean ever or do
5 you mean prior to September --

6 **MR. McEVOY:** Right now we're talking
7 about prior to September 14th.

8 **Q.** So you're clear about that, we're
9 talking about the e-mail you wrote, right?

10 **A.** OK.

11 **Q.** The e-mail you wrote on
12 September 14th. And in that e-mail you say that
13 you have experienced verbal abuse. So I'm asking
14 you questions about what happened prior to the
15 date you wrote this e-mail.

16 **A.** Right.

17 **Q.** And I'm assuming, just so that
18 Mr. Wronko's point is made clear, that the
19 discussion you had with the PA, the incident with
20 Dr. Fallon, the discussion with Dr. Schiller,
21 those all took place prior to when you wrote this
22 e-mail, correct?

23 **A.** OK.

24 **Q.** Yes?

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1 **A.** Yes.

2 **Q.** OK. So other than this discussion
3 with Dr. Schiller about whether you were unhappy
4 or not, did you have any other occasions prior to
5 September 14th when you wrote the e-mail in which
6 Dr. Schiller verbally abused you?

7 **A.** No.

8 **Q.** Let me show another document. I think
9 this may be the e-mail you were referring to
10 before.

11 **MR. McEVOY:** While you look at that
12 the reporter can mark this as Defendants'
13 Exhibit 6.

14 (Defendants' Exhibit 6, e-mail dated
15 September 16, 2010 to Patrick Lento, Bates
16 No. P475, marked for identification, this
17 date.)

18 **Q.** Dr. Varughese, have you had a chance
19 to look at the document I just showed you?

20 **A.** Yes.

21 **Q.** Can you tell me what it is?

22 **A.** It's an e-mail I wrote to Dr. Lento.

23 **Q.** And you mentioned a little earlier in
24 your testimony that after you met with Dr. Lento

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1 and Dr. Maniar that you had sent an e-mail to
2 Dr. Lento a day or so later. Is this the e-mail
3 you're referring to?

4 **A.** Yes.

5 **Q.** After you sent this e-mail did you
6 hear back from Dr. Lento about your complaint
7 about Dr. McCash involving this September
8 incident?

9 **A.** Well, I was referring to the incident
10 that occurred on September 14 and, no, I had not
11 heard anything back from Dr. Lento at that time.

12 **Q.** But my question was after you sent
13 this e-mail.

14 **A.** I actually don't recall if he e-mailed
15 me back now. I'm not a hundred percent sure.

16 **Q.** So did Dr. Lento ever arrange for, to
17 use your word, a "mediation" between you and
18 Dr. McCash?

19 **A.** No, there was no joint meeting.

20 **Q.** Did Dr. Lento ever get back to you in
21 response to your complaint or discuss the
22 complaint with you at any time after that first
23 meeting?

24 **A.** Well, he never brought it up to me,
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1 Varughese
2 but I felt that I had to follow up with him.
3 Q. So after you sent this e-mail on
4 September 16th did you have another conversation
5 or communication with Dr. Lento about this
6 September --
7 A. I did.
8 Q. When was that?
9 A. It was I believe a week later I spoke
10 to him.
11 Q. And where did that conference take
12 place?
13 A. I believe it took place in his office.
14 Q. Was anyone else present?
15 A. In the office, no. But in the outside
16 area?
17 Q. No, anyone else who was present that
18 could hear that conversation between you and
19 Dr. Lento.
20 A. No.
21 Q. So what did you say to Dr. Lento, what
22 did he say to you in this meeting that took
23 place about a week after this September 16th
24 e-mail?
25 A. Just in part if he had followed up
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1 Varughese
2 and...
3 Q. What did he say?
4 A. He just said he hadn't had a chance to
5 speak to McCash yet.
6 Q. Was there anything else said during
7 this meeting?
8 A. I believe maybe some, you know, minor
9 things related to residency and --
10 Q. No, I meant about the incident with
11 Dr. McCash.
12 A. No, I don't think so. Oh, I'm sorry,
13 perhaps there was.
14 Q. OK.
15 A. I believe -- I'm not sure if it was --
16 because I believe I met with Dr. Lento multiple
17 times following this incident to follow up with
18 him. I'm not a hundred percent sure what was
19 said, except that I know that he had stated that
20 he hasn't spoken to him yet at some point and he
21 has also stated that, you know, sometimes people
22 yell and, you know, he made excuses for McCash in
23 my opinion by stating that, you know, people yell.
24 We're a dysfunctional family, and so on.
25 Q. So when Dr. Lento said the things you
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2 just mentioned, you're not sure if he said them at
3 this meeting or at some other meeting or
4 conversation with him, but he said them at some
5 point.
6 A. Yes.
7 Q. Whether it was at this meeting or on
8 some other occasion when you spoke about this
9 incident, what else, if anything, did he say about
10 it other than what you already told me?
11 A. He never confirmed that he had spoken
12 to McCash or had intervened in any way that would
13 be significant.
14 He had now reassured me that it would
15 not happen again. He did not have a joint
16 meeting. And he also did not want to facilitate,
17 you know, ways for me to not, me to be able to
18 avoid McCash.
19 Q. Had you asked Dr. Lento to somehow
20 facilitate that, that you don't have to deal with
21 Dr. McCash?
22 A. Yes, indirectly I did.
23 Q. How did you do that indirectly?
24 A. By simply asking him to -- because
25 with my work, you know, surgical pathology is one
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1 Varughese
2 of the most relevant aspects of what we do as
3 pathologists, and I was concerned with my
4 potential treatment if I were on surgical
5 pathology rotation and McCash was chief because of
6 what had occurred and his opinion and --
7 Q. But did you ever say to Dr. Lento I
8 want you to somehow -- I don't know how that would
9 work, but that I want you to create a situation
10 where I don't have to report to McCash or McCash
11 won't be my chief, I won't have to work with him?
12 Something like that?
13 A. Did I simply state that?
14 Q. Yes.
15 A. I'm not sure now. I'm not a hundred
16 percent certain.
17 Q. How many conversations, because -- I
18 don't even need to go through each one of them,
19 but how many conversations did you have with
20 Dr. Lento about the September incident with
21 Dr. McCash? Because we've now talked about the
22 first meeting with Dr. Maniar, the e-mail, the
23 follow-up meeting a week later in his office.
24 Were there other meetings or
25 discussions with Dr. Lento after that, the one in
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1 his office that we just talked about?

2 **A.** Yes, I had met with him several times
3 and I just -- because I wanted to transfer with
4 the surgical pathology rotation, so I had met with
5 him just to request that. He had allowed me to
6 transfer to another institution for that time in
7 December because I didn't want to be at Sinai.

8 **Q.** So why did you want to transfer to
9 surgical pathology to get away from Dr. McCash?

10 **A.** Yes, essentially the rotations at
11 Elmhurst and Mount Sinai Medical Center are
12 essentially similar. They're both surgical
13 pathology and they all involve specimens removed
14 from surgery.

15 **Q.** So at the time you were in the
16 surgical pathology rotation at Mount Sinai.

17 **A.** Right.

18 **Q.** And McCash was one of your chiefs.

19 **A.** Right.

20 **Q.** And you went to Dr. Lento to request a
21 transfer to the surgical pathology rotation at
22 Elmhurst?

23 **A.** Yes. It was a rather -- it involved
24 two different -- that was essentially the idea.

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1 **Q.** And if I understood you correctly, but
2 I want to be sure that I do, you wanted that
3 transfer to Elmhurst so that you would basically
4 not have to have contact with Dr. McCash.

5 **A.** Yes. That was my motivation.

6 **Q.** When did you ask Dr. Lento to allow
7 you to transfer or to transfer you?

8 **A.** I believe I requested that from the
9 chief resident. So I wrote an e-mail to Kruti
10 Maniar, and it was myself and Jacqueline Hechtman
11 as well. So we both wanted to do this transfer,
12 because we both thought it would work for both of
13 us.

14 **Q.** And who had to approve the transfer?

15 **A.** Dr. Lento.

16 **Q.** Did you ever speak to Dr. Lento
17 directly or communicate with him directly about
18 the transfer and the reasons for the transfer?

19 **A.** Right, in one of the meetings where I
20 met with him I did speak to him.

21 **Q.** And what did you tell him? About the
22 transfer obviously.

23 **A.** Right, I just told him if I could
24 transfer and, I mean, at that point he had not

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1 intervened with the McCash issue and he had not
2 stated what he had done to prevent such incident
3 from occurring ever again.

4 **A.** And so I requested that I allowed, I
5 be allowed to transfer, and he felt that he
6 couldn't do it, he couldn't allow me to transfer,
7 and that was because he didn't have the power to
8 do so, one, and, two -- I'm not sure actually, I
9 am not sure actually if he said that, but he
10 definitely did say that there were some financial
11 reasons that he did not want us to transfer.

12 **Q.** Did you transfer or not?

13 **A.** No, I did not transfer.

14 **Q.** So the request to transfer was denied
15 basically.

16 **A.** Well, right. That request to transfer
17 to Elmhurst for this big period was denied.

18 **Q.** What about Dr. Hechtman?

19 **A.** Yes, we had arranged it as a transfer
20 that would work between us, our two schedules.

21 **Q.** So your request and Dr. Hechtman's
22 request was denied; is that right?

23 **A.** Correct.

24 **Q.** Do you know if Dr. Lento ever spoke to
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1 Dr. McCash about the September incident?

2 **A.** No.

3 **Q.** Did you have discussions, and I'm not
4 talking about family or friends, did you have
5 discussions with anyone else at Mount Sinai about
6 the September incident with Dr. McCash?

7 **A.** I cannot recall at this point. If I
8 remember I'll correct that.

9 **Q.** Now, directing your attention to the
10 second incident with Dr. McCash, the one that took
11 place in December of 2010 -- there was another
12 incident with Dr. McCash, correct?

13 **A.** Correct.

14 **Q.** And that took place when?

15 **A.** That took place in December of 2010.

16 **Q.** So before we get to the actual
17 incident, I want to ask you some questions about
18 the context in which the incident occurred.

19 **Q.** Where did this incident take place?

20 **A.** The incident took place in the gross
21 room.

22 **Q.** And was that during the day, during
23 the evening? What time of day did it take place?

24 **A.** It was in the evening.

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Q. And you were assigned to gross specimens that day?

A. Correct, I was the only surgical pathology resident on service.

Q. Who else was in the grossing room who was grossing specimens on that evening, I'll call it the evening shift, when you were there?

A. That day I was the grossing resident. The surgical pathology rotation had once again changed, so there was only one person responsible for all the specimens.

Q. Because at one time there had been two, correct?

A. At one time there had been two. There had been -- I'm not sure how many times they changed the rotation, but this was a month when I was the only one responsible for all the specimens with the exception of GYN and GI.

Q. Who was responsible for GYN and GI specimens?

A. I'm not sure. They have their own fellows.

Q. But it wasn't you.

A. It wasn't me I believe, yes.

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Q. So when you're the only person --

A. Actually, can I correct that?

Q. Absolutely.

A. There were different types of GI specimens. It's a little bit technical, but the GI specimens are usually divided into inflammatory bowel disease specimens and cancer or incidental emergency-type operations.

Q. So as the resident you're the only person who technically is assigned to the grossing specimens?

A. Myself, the pathology assistant or assistants, and there's a per diem PA and technically we are assigned.

Q. Who was the PA on the day this incident occurred?

A. There were multiple pathology assistants during the day. Their shifts have varied.

Q. Just so I understand, is there one PA who is assigned to the grossing room while you're there or do they come and go?

A. Pathology assistants, the ones that are --

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Q. I asked you about the PA, not the pathology assistants. The physician assistant. You said there was a physician assistant.

A. Oh, they're pathology assistants. They're not --

Q. This is different than physician assistant.

A. Yes.

Q. With that definition of PAs, how many PAs were working in the grossing room on the day this incident occurred?

A. I'm not a hundred percent sure how many PAs there were during the day. Usually they leave by 4 or 5 or 6 depending on their shift and the per diem PA starts his shift around 5, 5:30 p.m.

Q. Who was the per diem PA that day?

A. The per diem PA that day was Renato.

Q. Now, what role, if any, do moonlighters play in the grossing of specimens?

A. Moonlighters are requested by the resident who was grossing, was primarily -- the moonlighters are requested by the surgical pathology resident.

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Q. That would be you in this case.

A. In my case, to come in and assist if there are too many cases or too many specimens that cannot be managed reasonably by the surgical pathology resident.

Q. And as the surgical pathology resident can you make the decision to request assistance from moonlighters or do you have to get that approved by somebody?

A. We have a rule that we can call up to two moonlighters and they can work for three hours maximum each and that's...

Q. But you can do that without getting the permission from the chief resident or from the attending.

A. Oh, absolutely. Absolutely. It's not up to the chief resident to request the moonlighter.

Q. And just so we know, what are moonlighters?

A. Moonlighting is just an activity outside of regular work that involves similar work, but you get paid for it outside of your hospital contract salary.

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- 1
2 Q. So you get money in addition to your
3 regular salary.
4 A. Yes.
5 Q. So again, on the day that this
6 incident occurred, did you request assistance from
7 moonlighters?
8 A. I did not have the opportunity to call
9 the moonlighter to come and assist.
10 Q. But did moonlighters show up to
11 assist?
12 A. Yes.
13 Q. How many moonlighters were there?
14 A. There were two moonlighters and they
15 both showed up without me requesting that they
16 come in.
17 Q. Do you know how it is that they came
18 to show up if you didn't ask for them?
19 A. Well, I believe one of the
20 moonlighters was on service, on another rotation,
21 and she had already been there, and the second
22 moonlighter was on service at Elmhurst Hospital,
23 but he came in after his shift there.
24 Q. And who were the two moonlighters?
25 A. The two moonlighters were Adrienne

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- 1 Jordan and Paul Azar.
2 Q. And was Dr. Jordan otherwise a
3 pathology resident?
4 A. Yes.
5 Q. And I take it from what you said
6 before that she was a year behind you?
7 A. Yes, she started her residency one
8 year after I went, one year after I completed my
9 first year. No, one year after mine.
10 Q. So when you were a third year she was
11 a second year.
12 A. Correct.
13 Q. And you said Dr. Azar?
14 A. He's the same year as I am.
15 Q. Is there such a thing as a chief
16 moonlighter or a head moonlighter? Are you
17 familiar with those terms?
18 A. Right. We didn't use that terminology
19 when I was there. It was mostly said a primary
20 moonlighter and a secondary moonlighter.
21 Q. And after Dr. Jordan and Dr. Azar
22 arrived in the grossing room on this day in
23 December, did you have any discussion with --
24 we'll start with Dr. Jordan. Did you have any

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- 1 discussion with Dr. Jordan about the assignment of
2 grossing specimens or who was going to do what?
3 A. Correct, I had -- I didn't know she
4 was moonlighting that day. So I simply asked her,
5 you know, What are you doing? Because I don't
6 want specimens to be confused and removed, and so
7 on. So I just asked her just simply like, since I
8 was a primary -- since I was a resident who was in
9 surgical pathology, I was just more concerned for
10 my work and making sure it didn't get mixed up.
11 So I just simply asked her if she was
12 working or what, you know, what was going on. And
13 she just said, Oh, I'm the primary moonlighter.
14 Q. So she's there obviously I would take
15 it to do work, to gross specimens.
16 A. Correct.
17 Q. And you're there to gross specimens.
18 A. Correct.
19 Q. And someone has to decide who is going
20 to gross what specimens, correct?
21 A. Correct.
22 Q. So did you have a discussion with
23 Dr. Jordan as to who was going to or you're going
24 to do these specimens, I'm going to do those

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- 1 specimens?
2 A. I had a -- I asked her, you know, what
3 she wants, you know, if she's moonlighting and she
4 said she's the primary moonlighter, I said, Do you
5 mind grossing certain specimens so I can gross
6 others things, others specimens? And I believe
7 that's...
8 Q. What did she say?
9 A. I'm not sure if she said anything to
10 me.
11 Q. So do you remember what specimens you
12 wanted her to gross and what specimens you thought
13 you would gross?
14 A. I'm not sure now. There were so many
15 cases that day.
16 Q. Did you have any discussion with
17 Dr. Azar about what specimens he would gross, what
18 specimens you would gross?
19 A. Correct. Paul Azar came in at 5:30 or
20 so and, you know, he just simply started grossing
21 some specimens that were allotted to him by
22 Adrienne Jordan, and I did not really have any
23 discussion until he was finished grossing, which
24 was only about 30 minutes or so, and I saw that he

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was already done and I had, you know, three or four cases still remaining to complete. So I asked him to gross a few more things.

Q. And what types of specimens were those?

A. Can you elaborate?

Q. Sure. You said you were grossing, you had three or four specimens to work with. Were they GI, prostate, breast, some other work?

A. Correct. I believe there were some mastectomy specimens, some GI, complicated GI specimens. There was liver, complicated liver surgery specimens, and I believe colon cancers and noncancer, but surgical specimens from the GI tract.

Q. So is the way that it worked that Dr. Jordan took responsibility for whatever specimens she took responsibility for and then she would assign certain specimens to Dr. Azar?

MR. WRONKO: Form objection. Do you mean on this one occasion?

MR. McEVOY: Yes.

Q. On this occasion. Because I thought you said before, Dr. Varughese, that Dr. Azar was

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Jordan.

Q. Did he tell you that he wanted you to do certain breast cases and he wanted Dr. Jordan to do the prostate cases?

A. Well, I had a lot of breast specimens that day, so I assumed he meant the mastectomy and --

Q. What do you recall him saying about what specimens you should do?

A. That's -- well, I just recall him saying, Oh, let the prostates be done by the moonlighters. Because I believe there were two and I had already done one or something that day. So I believe he wanted them to do that.

Q. What did he want you to do?

A. I assume he wanted me to do the mastectomies and some of the other breast specimens.

Q. And after Dr. McCash had that discussion did he leave the gross room or the grossing room?

A. Yeah, I'm not sure if it was -- I don't think we had that discussion in the grossing room.

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doing specimens that Jordan had given him to do. That's why I'm asking you that question.

A. Well, she had started moonlighting much earlier than the time that we usually have allotted for moonlighters to begin moonlighting.

Q. You mean earlier that day.

A. Earlier that day. So she had gone under way with beginning to gross or prosect the specimen.

Q. Was there any disagreement between you and Dr. Jordan as to who would do one particular type of specimen as opposed to another type of specimen?

A. I don't remember having a disagreement with her.

Q. Did Dr. McCash come into the grossing room at some point?

A. Yes, he did.

Q. And did Dr. McCash have a discussion with you or say anything to you about what specimens he wanted you to do and what specimens he wanted Dr. Jordan to do?

A. He wanted -- I'm not sure if he had that discussion on what he wants me to do versus

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Q. Where did you have it?

A. I believe it was in the resident work area that's outside the grossing, where the computers and everything else is situated.

Q. Wherever it took place, after Dr. McCash said he wanted the moonlighter to do the prostate cases and you to do the breasts cases that you just described, he left, he went somewhere.

A. Right, he went -- I don't know where he went. I mean, that was the only time I saw him that day before 6 p.m.

Q. And did you do all of the breast cases or did you give one or more of them to the moonlighters to do?

A. Well, I mean, I was doing my work and Paul Azar was finishing his grossing and I simply asked, you know, told him if he would be able to do the, some of the breast specimens. Very small ones. That wasn't complicated, just...

Q. So then I take it that somehow Dr. McCash learned that Dr. Azar was doing some of these breast cases?

A. Correct.

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Q. Do you know how he found out?

A. Well, I believe he found out because Adrienne Jordan had just left following my conversation with Azar, and I assumed she said something to him.

Q. So your belief is that you gave, you asked Dr. Azar to help with these breast cases. Dr. Jordan was there when it happened and you think she went and told Dr. McCash.

A. Right. I asked -- correct.

Q. I'm just asking what you believe. So after you asked Dr. Azar to help on the breast cases and after Dr. Jordan left, did Dr. McCash come back to the grossing room?

A. I'm sorry?

Q. You said you asked Dr. Azar to help with the breast cases.

A. Right.

Q. You said you saw Dr. Jordan leave the grossing room.

A. Uh-huh.

MR. WRONKO: You have to verbalize.

Q. You can't say "uh-huh" because he can't take that down. So is that yes?

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Let's do it this way. You asked Dr. Azar to help with breast cases, yes?

A. Yes.

Q. And at some point after Dr. Azar began to help with the breast cases Dr. Jordan left the grossing room, correct?

A. Yes.

Q. After Dr. Jordan left the grossing room did Dr. McCash return?

A. Yes, Dr. McCash appeared for the first time in the grossing room that day when I was there as well.

Q. So when Dr. McCash came back into the grossing room --

A. Correct.

Q. -- at this point in time that we're talking about --

A. Correct.

Q. -- what, if anything, did Dr. McCash say to you?

A. He -- I believe he approached Azar first and he asked him what was he doing, what kind of specimens are you doing. And Dr. Azar said, Oh, just a few margins.

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And then McCash approached me and said, What are you doing? You're supposed to do them.

And I tried to explain to him I had several other cases that were piled up right next to me one by one for which I needed to complete the "grossing process" and submit blocks so I can get everything -- I mean, technically there's no rush, but I like to finish as much work as I can on the first day in order to prevent backup the following day and the day after.

So I tried to explained to him that's what I was doing, simply, you know, going through my work flow so I can...

Q. Right. And what else did Dr. McCash say?

A. He just insisted that I shouldn't be doing that and I tried to find a reason why. I was like, Why do you think that? And he's like, I don't think he should do it. I think you should do it.

And at this point Azar offered to put the specimens back. He said, Well, listen, just about put it back. It's not a big deal.

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I said I'll do it. Once I'm done with whatever was in front of me, I'll do it.

Q. What else did Dr. McCash say?

A. Then I just, and he was just very still very upset and glaring at me and so I just said this is ridiculous. So I just want to the back of the gross room, which is about 30 feet in length, and I tried to remove my gown and my gloves and mask and my, you know, voice-over dictation software and tried to leave.

Because I was concerned that, you know, this is very unusual for him to be this upset. So I was just concerned about his, you know, insistence that I do it. Even after saying that I would do it he would not let the situation be completed.

But then I took off my gown and gloves and I was going to the back and I was just removing everything and he starts approaching me. He starts charging at me and says, How could you -- you don't just listen to me. Why do you not listen to me?

And then he just follows me around like pointing to me and just invading my personal

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1 space.

2 Q. So when you had the first part of the
3 conversation with Dr. McCash which is before you
4 went to the back to remove your gown and gloves,
5 where were you sitting or standing?

6 A. I was standing by one of the doors.

7 Q. Where was Dr. McCash?

8 A. Dr. McCash was in the middle.

9 Q. So as close as you and I or further
10 away than you and I?

11 A. I believe closer because, you know,
12 like --

13 THE WITNESS: Perhaps like where you
14 are.

15 MR. WRONKO: Pointing to the reporter.

16 MR. McEVoy: Indicating the reporter.

17 A. (Continuing) Which is about four feet.

18 Q. I would agree with you, it's about
19 four feet or so. And was he speaking in a normal
20 tone of voice? Was it raised? Was he shouting?
21 How would you characterize his, during this period
22 of the conversation?

23 A. I believe it was slightly raised.

24 Q. And then when you went to the back and

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1 you said you removed your gown and your gloves and
2 he followed you to the back, how close was
3 Dr. McCash to you at that point?

4 A. Just literally, you know, not very
5 far.

6 Q. Can you estimate how far? One foot?
7 Two feet? Six inches?

8 A. Yeah, maybe about five or six inches
9 from me at some point.

10 Q. And what did you say in response? Now
11 we're at the second part of the conversation where
12 he's followed you to the back and he's standing
13 six inches or so away from you. What, if
14 anything, did you say in response to what
15 Dr. McCash said that you just described?

16 A. Just like, you know, at this point his
17 voice had become much louder and I believe he
18 was -- well, he stated that I wasn't listening to
19 him and I just don't do what I'm told, and just
20 very, very angry, just extremely angry, very
21 intimidating, sort of, you know, squared out his
22 chest and just point, point, point.

23 Q. And what, if anything, did you say in
24 response to what he just described?

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1 A. I was just once again really shocked
2 and I said, I believe I said, What is your
3 problem? I mean, What's your problem? And then I
4 just left. I left. I went to the door.

5 Q. We're not up to leaving yet. So did
6 you yell back at Dr. McCash?

7 A. At that point? No, I was too afraid
8 to say anything.

9 Q. Did you tell Dr. McCash to, quote
10 unquote, fuck off?

11 A. No.

12 Q. So you said only what you just told
13 me.

14 A. No, I was so terrified of him I could
15 not say anything to him at that time because I was
16 afraid I would make him more angry and it would
17 provoke some sort of action against me.

18 Q. Who else was present in the grossing
19 room when both parts of this conversation took
20 place?

21 A. Well, I believe it was just perhaps
22 Paul Azar and the per diem PA.

23 Q. Did we ever figure out who the per
24 diem PA was that day?

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1 A. Yes, it was Renato.

2 Q. Renato. Anyone else you recall being
3 present other than the PA and Dr. Azar?

4 A. No.

5 Q. So after you went to the back and the
6 second part of this conversation took place, you
7 said you attempted to leave or you left the
8 grossing room? What was it?

9 A. I did leave. I went to the door and,
10 you know, and I just kind of looked back to see
11 where McCash was and it seemed like he was just
12 sort of, you know, sort of off to the side and I
13 said, Well, you should come. We need to talk to
14 someone right now. This is unacceptable.

15 Q. Who did you say that to?

16 A. McCash. He was like on the other
17 side, you know, I walked out through the door that
18 has an actual door. I opened it and I kind of was
19 outside and I told him we need to come and talk to
20 somebody because this was unacceptable. You
21 cannot threaten me when I'm trying to perform my
22 work.

23 Q. Where did you go next?

24 A. Well, I just walked towards

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- 1 Dr. Bleiweiss's office, and that's where I went.
 2 I went to speak to Dr. Bleiweiss.
 3 Q. Before you spoke to Dr. Bleiweiss did
 4 you have any discussion with either Dr. Jordan or
 5 Dr. Azar?
 6 A. No.
 7 Q. Did you see them leave the grossing
 8 room and go to the histology area?
 9 A. No.
 10 Q. Did you follow them into the histology
 11 area --
 12 A. No.
 13 Q. -- or did you go into the histology
 14 area?
 15 A. No.
 16 Q. Did you yell or say to Dr. Jordan that
 17 she was ruining the residency program?
 18 A. No.
 19 Q. And did you tell her that she should
 20 not be running the moonlighting program?
 21 A. No.
 22 Q. Did you ask her why she was always
 23 causing drama?
 24 A. No.

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- 1 Q. Did you ever say those things to
 2 Dr. Jordan?
 3 A. I may have said some of those things.
 4 Q. Which of them did you say?
 5 A. I'm not sure. I mean, I'm not sure.
 6 Q. And when did you say some of those
 7 things to Dr. Jordan?
 8 A. Um, um, I'm not sure.
 9 Q. Do you recall Dr. Azar taking
 10 Dr. Jordan out of the histology area? I assume
 11 you don't since you said you never had the
 12 conversation. But I have to ask the question
 13 anyway.
 14 Do you recall Dr. Azar taking
 15 Dr. Jordan out of the histology area?
 16 A. No.
 17 MR. WRONKO: Form objection.
 18 Q. Who was the senior attending that day?
 19 A. I believe it was Dr. Bleiweiss.
 20 Q. Where was Dr. Bleiweiss's office in
 21 regard to or in relation to where the grossing
 22 room is?
 23 A. It's a few doors down the hallway.
 24 Q. So to get there you would have to come

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- 1 out of the grossing room and walk down the hallway
 2 a few doors?
 3 A. Right, I had to open the door and walk
 4 out.
 5 Q. Did you do that? Did you leave the
 6 grossing room -- I think you said you did -- and
 7 go to Dr. Bleiweiss's office?
 8 A. Yes.
 9 Q. While you were in the hallway before
 10 you got to Dr. Bleiweiss's office, other than what
 11 you described you said to Dr. McCash, did you have
 12 any other discussion with anybody in the hallway?
 13 A. No, I did not.
 14 Q. Did you make any other statements or
 15 say anything even if to no one in particular in
 16 the hallway?
 17 A. No.
 18 Q. Did you see Dr. Bleiweiss?
 19 A. Yes.
 20 Q. Tell me what happened when you went
 21 into Dr. Bleiweiss's office. What did you say to
 22 him, what did he say to you?
 23 MR. McEVOY: Off the record.
 24 (A recess was taken from 11:41 a.m. to
 25

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- 1 11:52 a.m.)
 2 BY MR. McEVOY:
 3 Q. Before we get to Dr. Bleiweiss, is
 4 there any pathology department policy regarding
 5 who's supposed to do the breast cases?
 6 A. No.
 7 Q. When this incident took place I take
 8 it that some of the breast specimens hadn't been
 9 completed yet, correct?
 10 A. Yes.
 11 Q. Do you know what happened to them?
 12 A. Yeah, I -- there was a mastectomy, I
 13 believe there was only one double mastectomy that
 14 day and that was placed in Formalin.
 15 Q. So did you finish doing that specimen
 16 or did someone else do that specimen?
 17 A. I did all the big cases, all the big
 18 breast specimens, lumpectomies and so on. I
 19 prosected or I grossed them and the mastectomy
 20 specimen, I took the measurements and I also made
 21 cuts in the specimen to evaluate for the lesions
 22 that are there.
 23 Q. When the incident with Dr. McCash
 24 occurred, I remember you said you went to the back
 25

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of the room, took off your gown, took off your gloves. At that point in time was there still work that you were doing that remained undone?

A. Yes. I was in the middle of finishing several cases for the day.

MR. McEVROY: Off the record.

(Discussion off the record.)

Q. So the work that was undone when this happened, do you know if it got done?

A. Yes.

Q. How did it get done?

A. I completed it.

Q. Did you complete it after this incident took place?

A. Yes.

Q. You came back and did it?

A. I completed just the initial evaluation of several specimens and insuring that they would be appropriately processed by fixing it in formalin.

Q. My only question is, did you do that after this incident took place or before?

A. I'm not sure.

Q. And putting it another way, after the

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incident took place and after you spoke to Dr. Bleiweiss and after whatever else took place that we'll get to, did you go back to the grossing room to do any further work on specimens?

A. Yes.

Q. What did you go back to do?

A. I went back to complete the work that I had remaining for that evening.

Q. Once you completed it you put whatever labels or stickers needed to go on it and sent it wherever it needed to go.

A. Yes.

Q. OK. Now we'll go to Bleiweiss. So you get to Dr. Bleiweiss's office and tell me what happened there.

A. I told him that, you know, McCash was harassing me and threatening me and I would like for him to come and speak to him.

Q. And what did Dr. Bleiweiss say?

A. He just shooed me away because he was on the phone.

Q. Tell me what happens. You get down the hall to Dr. Bleiweiss's office. Is his door opened or closed?

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A. His door is open.

Q. And you walk in.

A. Right. Here's like a small waiting area where the secretary sits and she does the transcription and then there's an inner door and that was, um, I believe it was open.

Q. So you came into what I'll call the outer office.

A. Right.

Q. Was the secretary there?

A. No.

Q. So then did you go into Dr. Bleiweiss's office?

A. No, I didn't go in. I just spoke to him while waiting in that area.

Q. So you stood outside his door?

A. Right.

Q. He was inside?

A. Right, he was on the phone.

Q. Were you talking to him while he was on the phone?

A. I -- well, I wasn't sure. I didn't see he had the phone on him, so I just -- he was like yes. So I, you know.

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Q. So you said what you just told me you said to him and then he kind of you said shooed you away because he was on the phone.

A. Yes, he was like, OK, and I believe, that's -- yeah.

Q. So what happened after that?

A. And I think I did not go back immediately. Actually, what did happen after that is just -- oh, I know what happened. I just went back to the gross room, because I was concerned about the work that needed to be done. So I thought perhaps I should just go back and I went back.

Q. Other than you're saying whatever you said to Dr. Bleiweiss and his shooing you away, did you talk to Dr. Bleiweiss after he got off the phone?

A. Well, I went back. Then later on in the evening I spoke to him.

Q. But at the time you didn't.

A. At that time, no.

Q. Did you speak to anybody else at that time?

A. At that time I don't think I spoke to

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1 Varughese
 2 anyone. Perhaps I called my sister or something.
 3 Q. No, I don't mean family.
 4 Do you know who Dr. Jaffer is?
 5 A. Yes.
 6 Q. Who is Dr. Jaffer?
 7 A. She's an attending pathologist.
 8 Q. Did you speak to Dr. Jaffer at around
 9 the time that you were trying to go in to see
 10 Dr. Bleiweiss?
 11 A. No, I did not.
 12 Q. So you go to see Dr. Bleiweiss. You
 13 say what you say you said. He's on the phone.
 14 A. Right.
 15 Q. He shoos you away. You go back to the
 16 grossing room to finish the work that you
 17 described.
 18 A. Right.
 19 Q. Then what happens?
 20 A. And I had a minute to gown up again,
 21 put on just a plastic apron and put on my gloves
 22 and sort of figure out with the dictation,
 23 headphone and get back to my station when
 24 Dr. Jaffer and I believe it was Dr. Jaffer and
 25 McCash appeared. And I believe Dr. Jaffer just

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1 Varughese
 2 showed up first and McCash followed soon after.
 3 Q. Did Dr. Jaffer say anything to you?
 4 A. She said, Hey, like what's going on?
 5 Is everything OK?
 6 Q. What did you say?
 7 A. I was like, Well, you know, something
 8 happened. I was beginning to getting into
 9 explaining what happened when McCash interrupted.
 10 Q. What did Dr. McCash say then?
 11 A. I think he was saying that I wasn't
 12 doing my work. I was putting off my work. I was
 13 trying to avoid doing my work, and so on. And I
 14 said, Well, that's not true. I'm doing my work
 15 right now.
 16 Q. And did you say anything else? During
 17 this conversation that took place between you and
 18 Dr. Jaffer and Dr. McCash.
 19 A. Well, I said, you know, just stop
 20 lying and saying that I'm not doing my work when I
 21 am and I'm managing all my responsibility. So I
 22 just asked him to stop saying what he was saying.
 23 Q. What else, if anything, did Dr. McCash
 24 say?
 25 A. Dr. McCash just kept badgering me even

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1 Varughese
 2 though the attending was there. I felt that he
 3 was badgering me.
 4 Q. What did he say?
 5 A. Insisting that I wasn't doing my work
 6 and me insisting that no, I am doing my work. I
 7 have this number of cases still remaining to
 8 gross, to -- some things I had grossed which I had
 9 to take sections from for histology, that I had to
 10 wait until it was in Formalin for about a few
 11 hours because it made the tissue more firm. So I
 12 had to wait for that.
 13 So I pointed out I have so many cases
 14 here that still need to be cut because it takes
 15 some hours to process.
 16 Q. And during this conversation that
 17 Dr. Jaffer was part of did you raise your voice?
 18 A. I don't remember raising my voice.
 19 Q. Did Dr. McCash raise his voice?
 20 A. I believe the conversation may have
 21 gotten, in this course of back and forth, the
 22 conversation perhaps had gotten heated.
 23 Q. What did Dr. Jaffer say while you and
 24 Dr. McCash were going back and forth as you
 25 described it?

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1 Varughese
 2 A. Dr. Jaffer was just, you know, like
 3 no, no, no. She didn't want the argument. So she
 4 was just like -- she was saying, you know, don't
 5 argue.
 6 Q. Do you know how Dr. Jaffer came to see
 7 you? You said Dr. Jaffer came into the grossing
 8 room and asked you what was going on.
 9 A. She told me that Dr. Bleiweiss had
 10 asked her.
 11 Q. How did the conversation between you
 12 and Dr. McCash and Dr. Jaffer end?
 13 A. You know, I was still in the middle of
 14 doing the work and I got very frustrated and then
 15 I told him to back off, and he was like, No, I'm
 16 the chief, and so on. I said, Well, I'm trying to
 17 do my work here. This is my career and this is
 18 important to me as well. So please back off. And
 19 he insisted on not backing off. I may have
 20 used -- I'm not sure if I had cursed now, but I
 21 may have.
 22 Q. So that's when you may have told him
 23 to "fuck off"?
 24 A. I may have.
 25 Q. So again, how did this, I mean, you're

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saying go away and leave me alone. He's saying, I'm not going anywhere. This battle you describe.

I'm assuming at some point this conversation came to an end, since you're not still there arguing with Dr. McCash. So how did it come to an end? Did Dr. Jaffer put an end to it? Did Dr. McCash finally walk away? What happened?

A. It was equally heated, a heated debate or argument about, you know, the work I'm doing versus the work I wasn't doing. Finally I was like just leave me alone and go away. And then, you know, he said something and he just I think -- I don't know. I mean, this is like a very painful event and --

Q. I understand. So if you don't remember how it ended, you can just tell me you don't remember how it ended.

Did he walk away at some point?

A. I believe I just -- I believe he and I both walked away. I just left.

Q. Was Dr. Jaffer there for this whole conversation up until the point that it ended?

A. I believe this event, yes. I believe

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she was there. Or she was there, I'm pretty sure.

Q. So then you said you finished the work that you still had to do. Yes?

A. Yes.

Q. What happened next in terms of this incident? You said you spoke to Dr. Bleiweiss that evening.

A. Right.

Q. Did you talk to anybody other than family, friends, et cetera? Did you talk to anybody at Mount Sinai about the incident between the end, your completing the end of your work and when you saw Dr. Bleiweiss that evening?

A. No. I believe I just left the floor and I went downstairs.

Q. Where did you go downstairs?

A. There's like a cafe area. So I just wanted to take myself out of the situation. I just left there for a minute.

Q. So then the next thing that happened regarding this incident is you spoke to Dr. Bleiweiss that you recall.

A. Right. Then I eventually came back. I may have been on the phone with someone

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discussing the issue, the incident.

Q. When you say talking to somebody, is that like somebody a friend or family member as opposed to somebody at Mount Sinai?

A. Right.

Q. So when did you see Dr. Bleiweiss? That day, but what time?

A. I saw Dr. Bleiweiss when -- I went back to the gross room and this was perhaps like 40 minutes or 45 minutes later. And I was just trying to wrap everything up for the evening, because it was already -- it was already rather late, and he just approached me to see what had happened or what was going on.

Q. Was anyone else present other than you and Dr. Bleiweiss when you had this conversation?

A. I don't remember, but I believe -- well, actually, the PA, Renato. Renato was there though the entire time.

Q. So you had a conversation with Dr. Bleiweiss in the grossing room.

A. Right, very brief conversation.

Q. So tell me what he said and you said.

A. He just said, What happened? And I

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said, Well, you know, McCash was harassing me. I find this is a pattern of his behavior. I find it is unacceptable. You need to talk to him. I cannot be treated this way. That's what I said to him.

Q. And what did he say?

A. He said, Yeah, OK, I'll talk to him. I'm going to go talk to him right now. And he walked out and he said he was going to go talk to him.

Q. Do you know whether he did?

A. No, I did not witness him discussing anything with McCash.

Q. So what is the next thing that happened regarding this incident? What did you do next, if anything?

A. The same evening?

Q. The same evening, next day, whenever. Whenever the next event was.

A. Oh, no, I just finished up my work and I remained there and the other residents appeared again. It was Paul Azar, Adrienne Jordan and McCash and they -- apparently they were told to get involved with grossing anything that I needed

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1 Varughese
 2 help, assistance with.
 3 Q. Do you know who told them that?
 4 A. Sorry?
 5 Q. Do you know who told them to assist
 6 you?
 7 A. Well, I believe that would have to
 8 come from Dr. Bleiweiss.
 9 Q. Do you remember the date on which this
 10 happened?
 11 A. Yes. It was 12/8/2010.
 12 Q. December 8, 2010.
 13 A. December 8, 2010, yes.
 14 Q. Between December 8th and December
 15 13th, or putting it a different way, in the three
 16 or four days after the incident took place, did
 17 you talk to any of your colleagues about the
 18 incident, other residents?
 19 A. Yes.
 20 Q. Who did you talk to?
 21 A. I talked to a lot of residents.
 22 Q. How many?
 23 A. Well, probably -- how many residents
 24 did I speak to? I can't recall off the top of my
 25 head right now.

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1 Varughese
 2 Q. More than five?
 3 A. Yes.
 4 Q. More than ten?
 5 A. I do not believe I spoke to ten
 6 residents.
 7 Q. And who do you recall speaking to?
 8 A. Just people I worked with.
 9 Q. What were their names?
 10 A. I spoke to nearly all my coworkers. I
 11 mean, this includes Alicia Martinez, Talesha
 12 Roman, John Chow, Ted Trevino.
 13 Q. What did you talk to them about? What
 14 were you telling them?
 15 MR. WRONKO: Form objection. You can
 16 answer.
 17 Q. I was trying to avoid going through
 18 each one, but go ahead, you can answer.
 19 A. I just simply told them what had
 20 happened and --
 21 Q. Where did you have those
 22 conversations?
 23 A. Well, I had the conversations on the
 24 phone or if they were there I just talked to them
 25 in person.

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1 Varughese
 2 Q. So did you have it in the break room?
 3 Did you have it while you were on service? When
 4 did you have it?
 5 A. Usually when I was alone with them
 6 or -- that's it.
 7 Q. Did you have those conversations with
 8 any of these residents while you were working and
 9 they were working?
 10 A. I do not think so.
 11 Q. Did there come a point in time when
 12 you received a letter from Dr. Lento and
 13 Dr. Pessin-Minsley?
 14 A. Right.
 15 Q. Regarding the incident with
 16 Dr. McCash?
 17 A. Yes.
 18 Q. While you're looking at that we'll
 19 mark it as Defendants' Exhibit 7.
 20 (Defendants' Exhibit 7, letter dated
 21 December 13, 2010, from Dr. Melissa
 22 Pessin-Minsley and Dr. Patrick Lento,
 23 addressed to "Dear Leena," marked for
 24 identification, this date.)
 25 Q. Have you had a chance to look at that?

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1 Varughese
 2 A. Yes.
 3 Q. Do you recognize it?
 4 A. Yes.
 5 Q. Can you tell me what it is?
 6 A. It's the letter I was presented with
 7 on December 13, 2010.
 8 Q. How did you receive the letter?
 9 A. Dr. Pessin and Dr. Lento gave me the
 10 letter.
 11 Q. So they gave it to you in person.
 12 A. Right.
 13 Q. And where did the, I'll call it a
 14 meeting, where did the meeting take place that
 15 they gave you this letter?
 16 A. The meeting took place in Dr. Pessin's
 17 office.
 18 Q. And did Dr. Pessin or Dr. Lento say
 19 anything to you before or after they gave you the
 20 letter?
 21 A. Yes, we had a brief discussion.
 22 Q. And what did Dr. Pessin-Minsley say?
 23 A. She just said that I can't talk to any
 24 of the residents regarding the incident and I'm
 25 not allowed to and it has come to her attention

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Varughese

that I've talked to people about it.

Q. Did she say anything else?

A. That's what I remember now.

Q. What did Dr. Lento say?

A. Who?

Q. Dr. Lento.

A. Dr. Lento, he said -- I believe he didn't say very much.

Q. Did he say anything that you recall?

A. Yeah, I don't really recall what he said.

Q. What did you say?

A. I just -- I didn't -- I don't think I said much. I just agreed not to speak to anybody else regarding the incident.

Q. Did you read the letter while you were sitting with Dr. Minsley and Dr. -- I'm sorry, Dr. Pessin and Dr. Lento?

A. No. Because they were just telling me that, you know, essentially they summarized the letter and they said that if I continued to speak to any of the residents regarding the incident they may want to terminate me or take some actions against me.

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Varughese

Q. But you did read the letter after the meeting I take it.

A. At some point when I had the opportunity to do so I did.

Q. And was that the same day you received it?

A. I'm not sure. I mean, I don't think so, because I was very busy at work that day and I didn't have much time.

Q. The next day?

A. Well, I think I read it. When I got home I read the letter.

Q. So the letter says that "it has come to our attention," meaning Dr. Pessin and Dr. Lento, "that you," referring to you, Dr. Varughese, "have been confronting your colleagues regarding this investigation, making various accusations, and disrupting departmental operations."

Do you know what they were referring to in saying you were confronting people, making accusations and disrupting the operation of the department?

A. No, I wasn't completely sure what they

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Varughese

were referring to.

Q. Did you after you read the letter go back to Dr. Pessin and say, I read this letter and I don't know what you're talking about here, what you're referring to here, to find out what they were referring to specifically?

A. No, I'm not certain now, but I believe Dr. Pessin may have mentioned that -- I don't think she mentioned anybody by name, but she said I confronted somebody and I spoke to people.

I wasn't sure what she was talking about, because I had spoken to several residents at that point. And then she said this letter is from legal, they approved it.

Q. I understand from what you said that Dr. Pessin and Dr. Lento told you don't talk to residents about this anymore. Right?

A. Right.

Q. The letter says that you're being confrontational, making accusations and being disruptive.

Did you think that you were being confrontational, making accusations and being disruptive?

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Varughese

A. At that time I did not think so.

Q. So my question is, after you read the letter did you go back to either Dr. Lento or Dr. Pessin and say, I've now read the letter. I don't know what you mean. Explain it to me.

A. Right, so I tried to request a meeting from Dr. Lento on December 14th. And we did not meet.

Q. Why didn't you meet?

A. I don't think I was given a date where I could meet with Dr. Lento, or a time.

Q. Between December 13, 2010 and September of 2011 did you ever speak to Dr. Lento again?

A. No, I don't think I spoke to him in that time period.

Q. So for approximately nine months during which he was the program director you never spoke to Dr. Lento?

A. Oh, I misheard that particular. What did you ask?

Q. I said, between December 13th, the date of this letter, and the day you were terminated, September of 2011, did you ever have

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Varughese

1
2 any conversation with Dr. Lento on any subject at
3 any time?

4 A. Yes.

5 Q. So at any of those meetings that
6 you've had with Dr. Lento, however many there
7 were, did you ever bring up this letter or what
8 its content meant?

9 A. No, I did not. I actually spoke to
10 Dr. Stimmel, who was the ombudsman at the
11 hospital, because I was concerned with the
12 contents and he just told me not to worry. He was
13 like forget this letter.

14 Q. So when did you speak to Dr. Stimmel?

15 A. I believe it was December 14th.

16 Q. So you get this letter on the 13th.

17 You read it when you go home that night and you go
18 to see Dr. Stimmel on the 14th?

19 A. Correct.

20 Q. Where did the meeting with Dr. Stimmel
21 take place?

22 A. I met with Dr. Stimmel in his office.

23 Q. Was anybody present other than you and
24 Dr. Stimmel?

25 A. No.

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Varughese

1 Q. What did you say to him and what did
2 he say to you? About the letter first.

3 A. Right. He just said that Dr. Pessin
4 had called him and to report that there were, you
5 know, there was an incident in the pathology
6 department and she had called him to speak to him
7 about it and he said, Well, you know, you already
8 spoke to me several days ago. I didn't tell her
9 what the content of the conversation was or that I
10 had even spoken to you. But, you know, I'm just
11 letting you know that she had called me today for
12 the first time.

13 So I said OK. Well, you know what
14 happened. And he kind of wanted to know, can you
15 elaborate? He wanted me to elaborate further.
16 And I told him, you know, what had occurred
17 December 8th and my concerns, and he said, Well,
18 you know, he asked me some questions about McCash
19 and I just answered him honestly.

20 Q. Did the letter come up?

21 A. Yes. Then I told him about the
22 letter. And he said, Just forget about the
23 letter. Don't worry about it.

24 Q. Did he say anything about how you

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Varughese

1
2 should conduct yourself going forward about
3 talking to residents, not talking to residents?

4 Did he give you any advice on that point?

5 A. No, he didn't say anything about that.

6 He said I should speak to people if I want to.

7 Q. Was it your understanding after
8 talking to Dr. Stimmel that what Drs. Lento and
9 Pessin had told you, that you shouldn't talk to
10 residents, that you now could talk to residents?
11 What was your understanding?

12 A. Right, I mean, I just -- at this point
13 I felt that they didn't want me to speak to the
14 residents. And Dr. Stimmel didn't seem to think
15 that was an issue and he wanted me to forget this
16 letter.

17 So I just thought, Well, I just need
18 to get back to do my work, because it was a very
19 intensive week in terms of my responsibilities to
20 the patients at Mount Sinai Hospital.

21 Q. So going forward after this letter,
22 after these conversations with Lento and Pessin
23 and Stimmel, you did or didn't talk to residents
24 about the incident with McCash?

25 A. Going forward I did not speak to
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Varughese

1
2 anybody about the -- at least until I was out of
3 the surgical pathology rotation. Then I may have
4 spoken to some of my colleagues again at some
5 point, but --

6 Q. I understand.

7 A. -- not, you know, during the week or,
8 you know.

9 Q. After you spoke to Dr. Stimmel did you
10 communicate with anyone else at Mount Sinai about
11 this incident with Dr. McCash? And by "this
12 incident" I mean the December 8th incident.

13 A. Outside of Mount Sinai?

14 Q. No, inside Mount Sinai.

15 A. Yes, after December 8th I spoke to
16 Dr. Petersen, who was my mentor, and I just asked
17 him -- I just informed him about what happened and
18 what I thought, and he gave me some perspective
19 being that he was a chief resident previously at
20 Mount Sinai Medical Center. So he just gave me
21 some perspective and he just told me, you know.

22 Q. What did he tell you?

23 A. He told me not to, you know, not to,
24 you know, he just tried to reassure me. He said,
25 Well, nobody should speak to you that way and

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Varughese

nobody should demean you and harass you when you're working, even if it's over some margins that was being grossed by the moonlighter and they felt they were wrong. There's no place for that.

He sort of agreed with me. He agreed with me on my opinion that McCash was acting out of his authority and intimidating and harassing me.

Q. Anything else that Dr. Petersen told you?

A. No.

Q. Who was the next person?

A. Oh, actually, he did. I think he told me just to like, you know, I'm not sure if this was this time, but some point we had discussed this issue again and he just said we should try to enjoy and not to worry about, you know, just trying to be supportive.

Q. When did you speak to Dr. Petersen?

A. I spoke to him on December 14th, I believe.

Q. So after you spoke to Dr. Petersen on the 14th and after you spoke to Dr. Stimmel on the 14th, who was the next person, if anyone, at Mount

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Varughese

Sinai who you communicated to about the December 8th incident with Dr. McCash?

A. Since December 8th I had communicated with Dr. Schiller and Dr. Bleiweiss again. That was on December 9th.

Q. Well, Dr. Bleiweiss was the conversation that took place -- oh, no. I'll ask it this way.

Where did the conversation with Dr. Bleiweiss take place on the 9th?

A. Well, December 9th I was working and catching up on the work from -- not catching up, completing the work from the day before and I was also on assignment for intraoperative consultations that afternoon. So I was performing my work there.

Then Dr. Schiller's secretary found me in that little office area for intraoperative consultation and said that Dr. Schiller wanted to speak to you.

Q. Well, I asked you about Dr. Bleiweiss, but we'll talk about Dr. Schiller. So did you go see Dr. Schiller?

A. Yes.

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Varughese

Q. This was on December 9th.

A. Yes.

Q. Where did you see Dr. Schiller?

A. He was in his former office.

Q. Was anyone else present?

A. Dr. Bleiweiss.

Q. So when you say you saw Dr. Bleiweiss and Dr. Schiller on the 9th, you saw them both at the same time.

A. Correct.

Q. Together.

A. Correct.

Q. So told me what was said at that meeting with Dr. Schiller and Dr. Bleiweiss.

A. Well, Dr. Schiller just said that it had come to his attention there were some events or incidents. And then he said, you know, he said, Is everything OK with you? And I was like yes.

Basically to summarize, it's just he just mentioned that, you know, if you were having problems is a sign of worse things and we don't want bad things to happen to you here. Just like very like generic intimidating language when I

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Varughese

just felt I'm just trying to do my work and I'm not interested in, you know, doing anything else and it just seemed really out in left field to me and rather strange.

But I asked Dr. Schiller, Do you even know what happened? And he just said, It doesn't matter what happened. I don't care. Whatever.

And it's almost like it was besides the point, and I was like, well, you know, let me tell you what happened so then you can decide if it's besides the point or not.

And he wasn't really interested, but I think I tried to get my, you know, point across anyway and he told me I should go see someone because I'm very upset, you know, getting upset. And I said, Well, I have a reason to be upset. This is not, you know, this is a very traumatic event for me and I'm trying to work. Like pathology is very important to me. It's what's going to feed me going forward.

I don't believe I used those exact words, but I told him that, you know, basically it's a bread and butter, and I like what I'm doing and I enjoy what I'm doing.

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Varughese

1 Q. When Dr. Schiller said you seem to be
2 upset, maybe you should go see someone, did he
3 mean you were upset then at the meeting or you
4 were upset during the discussion with
5 Dr. Bleiweiss and Dr. Schiller?

6 MR. WRONKO: Form objection. You can
7 answer.

8 A. Do mean what he thinks?

9 Q. Well, not what he thinks. But he
10 said, you seem to be upset, you should go see
11 someone. Did you interpret that to mean that he
12 thought you were upset at the time?

13 A. I mean, I don't think so, because I
14 feel like he had planned to say that, because he
15 had called me in and I feel like it's a tactic
16 that he has used with me before. I just thought
17 he's doing that again, which was even more
18 upsetting to me.

19 Q. When you said "before," you're
20 referring to the incident you told me about with
21 Dr. Schiller earlier today?

22 A. Right.

23 Q. So what Dr. Bleiweiss saying during
24 this meeting, if anything?

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Varughese

1 A. He didn't say anything. I think he
2 was also slightly shocked. At least that was my
3 impression. But, I mean, he didn't say much.

4 Q. Did he say anything other than hello
5 and goodbye?

6 A. He just said, you know, We can't have
7 people taking on work. You need to work. You
8 can't just not come in and, you know, you just
9 need to be here and work. So that's what he said.
10 Along those lines. That's what he said along
11 those lines.

12 Q. Had there been some issue about you
13 not coming into work?

14 A. No, not that period.

15 Q. So then did you ask Dr. Bleiweiss what
16 he was referring to?

17 A. No. I don't think I did.

18 Q. So after you met with Dr. Bleiweiss
19 and Dr. Schiller on the 9th -- well, when you met
20 with Schiller and Bleiweiss did you ask them to do
21 anything?

22 A. Well, I mean, they weren't asking me
23 what had happened even. They were sort of saying
24 what they wanted to say.

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Varughese

1 Q. I understand. Did you ask them to do
2 anything?

3 A. I believe I asked them to intervene in
4 some way.

5 Q. Do you recall what you said? Are you
6 sure that you asked them that?

7 A. I can't -- I mean, I don't recall.

8 Q. When you met with Dr. Petersen, I
9 mean, other than your telling him what happened
10 and him giving you a perspective, did you ask him
11 to do anything regarding this incident?

12 A. Yes.

13 Q. What did you ask Dr. Petersen?

14 A. Well, Dr. Petersen said, Well, let me
15 speak to him. I can talk to him.

16 Q. Him being?

17 A. I think he wanted to talk to Dr. Lento
18 at that time and he wanted to say something.

19 Q. Do you know whether he spoke to
20 Dr. Lento?

21 A. I don't know.

22 Q. When you met with Dr. Stimmel, did you
23 ask him to do anything?

24 A. Yes.

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Varughese

1 Q. And again, about the incident.

2 A. Yes, I -- I gave him permission to
3 speak to Dr. Pessin. If she talked to him again
4 or just present, you know, sort of my side as
5 well. So I asked him to speak to her.

6 Q. Do you know if he did?

7 A. I'm pretty certain that they spoke at
8 some point just based on people saying that they
9 did.

10 Q. So after December 14th what's the next
11 communication that you had with someone at Mount
12 Sinai about this December 8th incident?

13 A. Well, the following day on
14 December 10th, 2010, I spoke to Dr. Pessin and she
15 said that this incident had occurred, had come to
16 her attention, and she wanted to know what
17 happened. She wanted to know my side. And she
18 said, Well, I want to know what happened. Why
19 don't you tell me what happened. Elaborate.

20 So I just recollected the incident and
21 what had happened that evening. And then she told
22 me that, you know, Sam is no longer the chief for
23 the next week and Kruti is officially in charge as
24 of now. So, you know, like if I have any concerns

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1 Varughese

2 regarding my work I should delegate it to -- well,
3 I should bring it to her attention.

4 Q. Her being Kruti?

5 A. Kruti Manlar, yes, bring it to her
6 attention, and she just asked me if I'm OK to
7 work.

8 Q. Where did that meeting take place?

9 A. That was in Dr. Pessin's office.

10 Q. Did you ask Dr. Pessin to do anything
11 about the incident?

12 A. Yes. I asked her to have McCash step
13 down as chief resident or take some actions
14 against him, because he was making it difficult
15 for me to perform my work and actually interfering
16 with me when I was performing work.

17 Q. As far as you know, did Dr. McCash's
18 tenure as chief resident end sooner than it should
19 have?

20 A. No.

21 Q. So he was chief resident until the end
22 of his year.

23 A. Correct. He was, I mean, they
24 transitioned the chief residency over to the, um,
25 the chief residents will be chief the following

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1 Varughese

2 year in the middle of the year.

3 Q. That's the normal procedure.

4 A. That's the normal procedure, but
5 essentially yes, he served out his full term.

6 Q. Well, putting it a different way, your
7 request that he step down as chief resident didn't
8 happen.

9 A. Yes, I asked that some action be taken
10 against him.

11 Q. You told me that, but you also told me
12 you wanted him to step down as chief resident.

13 A. I believe I asked her that he should
14 be removed as chief resident.

15 Q. And he was not removed as chief
16 resident.

17 A. No. Only for a short period, but
18 never officially. No, he wasn't removed. He
19 wasn't removed as chief.

20 Q. Who was the next person you spoke to
21 at Mount Sinai about the December 8th incident?

22 A. Actually, I forgot to add Dr. Stimmel.
23 I did speak to Dr. Stimmel on December 9th right
24 after I spoke with Dr. Schiller and Dr. Bleiweiss,
25 and that was on December 9th as well and I just

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1 Varughese

2 reiterated what had happened and how I remember
3 Dr. Schiller and this is what he said to me.

4 I mean, the majority of my
5 conversation with Dr. Stimmel concerned what
6 Dr. Schiller said.

7 Q. On the 9th.

8 A. And me briefly mentioning the McCash
9 incident.

10 Q. When you spoke to Dr. Stimmel on the
11 9th did that take place in his office?

12 A. Yes.

13 Q. The purpose of you seeing Dr. Stimmel
14 on that day was to talk about the conversation you
15 had with Schiller and Bleiweiss?

16 A. Well, I was going to inform him about
17 what had happened anyway, but it was just so
18 that -- but since the Schiller incident occurred
19 it became about me reporting about McCash and then
20 the Schiller and Bleiweiss meeting.

21 Q. On the 14th when you met with
22 Dr. Stimmel it was more about the letter that you
23 had received on the 13th from Lento and Pessin.

24 A. Right. After I received the letter my
25 discussion with Dr. Stimmel was about the letter.

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1 Varughese

2 Q. So who's the next person you spoke to
3 at Mount Sinai about the December 8th incident?

4 A. After that I didn't -- I don't think I
5 spoke to anyone.

6 Q. Do you know Caryn Tiger-Paillex?

7 A. Yes.

8 Q. Who is Ms. Paillex?

9 A. She is the director of human
10 resources.

11 Q. Did there come a time when you
12 communicated with her about this incident?

13 A. Yes.

14 Q. When did you do that?

15 A. December 23rd.

16 Q. I will show you a document.

17 MR. McEVoy: Let's have it marked as
18 Exhibit 8.

19 (Defendants' Exhibit 8, e-mail dated
20 December 23, 2010 from Leena Varughese to
21 Ms. Tiger-Paillex with attachment, Bates
22 Nos. D-856 and 857, marked for
23 identification, this date.)

24 Q. Have you had a chance to look that
25 over, Dr. Varughese?

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Varughese

1 A. Yes.

2 Q. Do you recognize it?

3 A. Yes.

4 Q. Can you tell me what it is?

5 A. It's a letter I wrote to the director
6 of human resources, Caryn Tiger-Paillex.7 Q. I think it's actually an e-mail,
8 but it's --

9 A. E-mail, correct.

10 Q. It's from you to Caryn Tiger-Paillex
11 dated December 23, 2010, and it has a one-page
12 attachment labeled "Grievance," correct?

13 A. Correct.

14 Q. So why did you send this to
15 Ms. Paillex?16 A. Because I was concerned about
17 retaliation by the department for reporting, um,
18 what had happened to me and perhaps speaking to
19 Dr. Stimmel and...20 Q. Was that fear of retaliation just a
21 concern you had or had anything happened or
22 anybody said anything that made you come to that
23 conclusion?24 A. Well, my fear of retaliation was based
25 **Computer Reporting NYC Inc.**
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Varughese

1 on the academic advisement.

2 Q. We'll come to that, but when were you
3 placed on academic advisement?4 A. I was placed on academic advisement --
5 well, I was informed of academic advisement on
6 December 20th.7 Q. So you received the academic
8 advisement, and like I said, we'll talk about that
9 more another time, but you received or you were
10 told about academic advisement on December 20th.

11 A. Correct.

12 Q. Was the receipt of the academic
13 advisement what prompted you to send this e-mail
14 to Ms. Tiger?15 MR. WRONKO: Form objection. You can
16 answer.17 A. To some degree, yes. But also I was,
18 I wanted to report the incident as it had
19 occurred.20 Q. So you sent this to Ms. Tiger-Paillex.
21 Did you either follow up with her or receive a
22 response from her to this e-mail and the
23 attachment, what I will now call "the grievance."

24 A. Can you repeat that question?

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Varughese

1 Q. Sure. After you sent this e-mail to
2 Ms. Tiger-Paillex on December 23, 2010, did you
3 either follow up with her or did she communicate
4 with you about the grievance?5 A. Right. She sent me an e-mail and
6 communicated with me.7 Q. Let me show you, it's an e-mail
8 string, I believe, if you will take a look at
9 that.10 MR. McEVROY: The reporter can mark it
11 as Defendants' Exhibit 9.12 (Defendants' Exhibit 9, e-mail string,
13 Bates Nos. P866 and 867, marked for
14 identification, this date.)

15 Q. Have you had a chance to look at it?

16 A. Yes.

17 Q. So do you recognize it?

18 A. Yes.

19 Q. Can you tell me what it is?

20 A. It's an e-mail chain that originated
21 in December 23rd.22 Q. So at the moment I'm only going to ask
23 you about a couple of the e-mails and I will come
24 back to the others later. But the first e-mail in25 **Computer Reporting NYC Inc.**
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1 the chain which is as usual is at the bottom is
2 the e-mail we just looked at that you sent to
3 Ms. Tiger-Paillex on December 23rd, correct?

4 A. Correct.

5 Q. And then the next e-mail in the chain
6 is from December 24th from Ms. Tiger-Paillex to
7 you in which you basically says she's received
8 your document and she wants to meet with you to
9 discuss the incident. She won't be in until after
10 first of the year and please call to schedule an
11 appointment.

12 A. Correct.

13 Q. Did you call and schedule an
14 appointment with Ms. Tiger-Paillex?

15 A. Yes, I did.

16 Q. When was that appointment?

17 A. Sometime after the new year.

18 Q. Did you meet with Ms. Tiger-Paillex?

19 A. Yes, I did.

20 Q. Where did that meeting take place?

21 A. In her office.

22 Q. Was anyone else present besides you
23 and her?

24 A. No.

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Q. Tell me what happened at that meeting and what you said to her, what she said to you.

A. I just recounted the events as had occurred to Tiger-Paillex and she asked me some questions and I responded honestly to her and --

Q. So to make it a little easier, did you tell Ms. Tiger-Paillex about what had happened on December 8th?

A. Yes.

Q. Did you tell her about the meetings you had had with, putting it a different way, what had occurred after the actual incident took place? Did you tell her about the conversation between you and Dr. Jaffer and Dr. McCash?

A. Yes. I believe she asked me who was there and what happened and she wanted the full sequence of events. So I believe I would have told her.

Q. Did you also tell her about your conversations with Dr. Petersen and Dr. Stimmel and Dr. Schiller and Bleiweiss?

A. I believe I told her about speaking to Dr. Stimmel already. And I'm not certain if I talked about Dr. Schiller and Dr. Bleiweiss,

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meeting, but I did -- I talked about meeting with Dr. Pessin and, you know, how I reported the incident and then I also discussed academic advisement and just what has ensued and my concern that I was being singled out and targeted for discipline while McCash was not.

Q. What, if anything, did Ms. Tiger-Paillex tell you what happened next as a result of your filing this grievance?

A. Well, she said that she will speak to the different parties involved and she would -- I believe she -- I'm not sure if she said that, but she definitely did say she will follow up with me and she will investigate.

Q. Do you know whether Ms. Tiger-Paillex or someone at her request conducted an investigation into the incident between you and Dr. McCash?

A. Um, I wasn't sure if she was conducting an investigation, but I was requested to meet with Dr. Figur and Paul Johnson at some point in January after I met with Caryn Tiger-Paillex.

Q. And we'll come back to that, but other

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than being asked to meet with Dr. Figur, which is figure without the E, Dr. Figur and Paul Johnson who is not a doctor, do you know what, if anything, else Ms. Tiger did to investigate your grievance?

A. I do not know what she did.

Q. Do you know whether anybody else participated in the investigation of your complaint?

A. Well, other than Dr. Figur and --

Q. Other than the meeting you had with Dr. Figur and Paul Johnson.

A. No.

Q. After the incident with Dr. McCash, and the incident I'm referring to is the December 8th incident, was any effort made or were you ever told about who you should deal with going forward?

And by that I mean, was there some decision made that you were informed of to have you report as your chief more to Kruti than to Sam?

A. Yes.

Q. How did that come about? How did you

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learn about that?

A. I spoke to Caryn Tiger-Paillex and she told me that I can talk to, instead of talking to Dr. Lento and Sam, just talk to Kruti and have, you know, go through her instead of going through Sam and Dr. Lento for your requests or problems.

Q. So what Ms. Tiger-Paillex told you was going forward. Was this at the meeting that took place sometime in January?

A. No.

Q. It was later?

A. It was in April.

Q. So in April of 2011 now, I guess, Caryn Tiger said to you that going forward you could deal with her instead of with Dr. Lento as the program director.

A. Yes.

Q. Right?

A. Yes.

Q. And in terms of your day-to-day work you could deal with Kruti Megier (phon) instead of Sam McCash, right?

A. It's Maniar, M-a-n-i-a-r.

Q. I'll have it right by the time we're

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1 done. And the question is, going forward you
2 dealt with Dr. Maniar, not with Dr. McCash.

3 A. Right. After April at some point
4 that's what she wanted me to do.

5 Q. Is that what you did?

6 A. Well, that's not really an option
7 available to me, because the program director is
8 Patrick Lento.

9 Q. But in terms of Dr. McCash, did you
10 then deal with Dr. Maniar?

11 A. I tried my best not to interact with
12 him.

13 Q. After the December 8th incident were
14 there any other incidents with Dr. McCash?

15 A. Any other incidents with Dr. McCash?

16 Q. And by any other incidents, I mean any
17 other incidents in which he yelled at you or in
18 your view harassed you or mistreated you in some
19 way.

20 A. As far as I recall, he became more
21 aggressive around me. He would always stomp his
22 feet when he was walking around me. He would just
23 close the door really, you know, forcefully when he
24 was going out of the room that was right next to

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1 my desk. He would, you know, stomp his feet and
2 make shows of disapproval.

3 Q. Other than stomping his feet and
4 closing the door in the manner you described, how
5 else, if at all, did he manifest his disapproval?

6 A. He, when I was on GYN pathology, he
7 was assigned for moonlighting duties for two days
8 and he would not assist me or he would not assist
9 me with my specimens that were, that could have
10 been grossed by the moonlighter, and he was on
11 moonlighting duty and he refused to do any of
12 those, gross any of those cases.

13 Q. When you say he refused, did you ask
14 him?

15 A. No, because I was afraid of him.

16 Q. So did anyone else ask him?

17 A. No. I left a note saying this is for
18 moonlighter. So I just put the specimens to the
19 side and I left a note saying this was for
20 moonlighter.

21 Q. So he didn't do them.

22 A. Yes, he did not do them.

23 Q. Do you know whether Dr. McCash was
24 told anything about how he should interact with

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1 you going forward after the incident?

2 A. No, I have no idea.

3 Q. So other than stomping the feet and
4 closing of doors and what you just described about
5 the specimens, any other way in which Dr. McCash
6 expressed disapproval of you?

7 A. Right. So while I was at the veterans
8 administrative affairs hospital and he was also
9 assigned there, he was not allowed to be in the
10 same work space as me.

11 Q. How do you know that?

12 A. Well, because Dr. Lento said he is not
13 allowed to be in the same work station as you.

14 Q. When did Dr. Lento tell you that?

15 A. Well, he didn't say that exactly. He
16 said, I'll talk to Sam. Again, that's what he
17 said and they said they won't be sharing an
18 office.

19 Q. When did Dr. Lento tell you that?

20 A. Sometime in May.

21 Q. Of 2011?

22 A. Uh-huh.

23 Q. So you're saying you're both at the
24 VA's office.

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1 A. Uh-huh.

2 Q. You can't do uh-huh. You've got to --

3 A. Yes.

4 Q. So you started to tell me that you
5 were at the VA.

6 A. Uh-huh.

7 MR. WRONKO: You've got to verbalize.

8 A. Yes, yes, yes.

9 THE WITNESS: Do you mind if I get
10 something for my --

11 MR. McEVOY: Be my guest. Off the
12 record.

13 (A very brief recess was taken.)

14 Q. So tell me what happened at the VA
15 with Dr. McCash.

16 A. He was not allowed to be in the same
17 work space as me, but he would often leave his
18 things next to me in my, you know, that work area.

19 Q. Anything else that Dr. McCash did that
20 you interpreted as being disapproving of you or --

21 A. No, just glaring, the usual stomping.

22 Q. Did you complain to anybody about the
23 stomping, the door closing, the specimens or
24 leaving his stuff near your work site?

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A. At that point I just felt that whatever I said would not be believed and it was futile for me to complain any further.

Q. So I take it the answer is no.

A. Yes.

Q. No, you didn't complain to anybody.

A. No.

Q. If you go back to the document that I had just given you, and we'll just do these couple of things and then we can break for lunch. Turn that over, Dr. Varughese, the one in front of you.

So we looked at the e-mail where Ms. Tiger-Paillex asks you to set up the meeting with her. You set up the meeting, you have the meeting.

The next e-mail as you go up the chain is from you to Caryn Tiger-Paillex on March 30, 2011. Do you see that?

A. Yes.

Q. And it basically says that, you know, you're e-mailing her about the incident with McCash which you discussed about almost three months ago. "The situation have progressed and continues to ensue and is very negative for my

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well-being. I would like to meet with you at this point to discuss my concerns."

Between the meeting with Caryn Tiger-Paillex in January of 2011 and this e-mail at the end of March had you had any communications with her about the complaint you had filed or the grievance you had filed?

A. No. I don't think I spoke to her again after that first interview.

Q. When you say the situation has "progressed and continues to ensue in a way that is very negative for my well-being," what were you referring to?

A. The situation I was referring to was the, you know, several meetings with Dr. Figur and Paul Johnson, problems with work, when I was on the floor, in terms of having access to work material that I needed, referral to the Physician Wellness Committee which I thought he was very, you know, just very involved.

It was just, you know, I'm supposed to be a doctor who is taking care of patients, but I am in all these meetings every so many days. I'm sort of fearful to be at work to some degree and

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it just -- it was becoming very hostile I believed.

Q. So you've asked to meet with Ms. Tiger-Paillex and the next e-mail going up the chain says, and this is from Ms. Tiger-Paillex to you, it says, I'm "sorry to hear that you cancelled our meeting scheduled for yesterday. Please call my office to reschedule so that I can discuss the outcome of my fact finding. Thank you."

Then I take it that you met with Ms. Tiger-Paillex on April 5th, correct?

A. Yes. I believe I met with her one of those days. I'm not sure --

Q. Well, if you look at the first e-mail it's from you to Ms. Tiger-Paillex, it says "Thank you for taking the time to meet with me on Tuesday April 5th." So --

A. Yes, but sometimes I mess up the dates.

Q. We'll assume at least for the moment that you didn't. Whether it was April 5th or some other day, you met with Ms. Tiger-Paillex sometime around April 5th, right?

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A. Yes.

Q. So tell me what happened at that meeting. What did you say to her, what did she say to you?

A. I just talked to her about, you know, whether or not she had her fact, you know her fact-finding was complete and if she had documentation or any kind of documentation regarding what her findings were. And we discussed some of the, you know, we discussed a lot of her -- we discussed whatever I had said that we had discussed at the meeting, whatever I stated we discussed in this e-mail.

Q. What else took place? What else did you say? What else did Ms. Tiger-Paillex say?

A. Um -- can we take a break now?

MR. WRONKO: He's in the middle of a question. So you have to answer the question.

Q. We just have to finish. Let's do this if this is OK. Then you can take a break. Just finish telling me about what happened at the meeting and then we'll take a break. We'll break for lunch. When we come back we'll talk about

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2 your e-mail. So just tell me what was said at the
3 meeting.

4 A. She said she thought that McCash was
5 not allowed to interact with me anymore. She
6 thought, her impression was that he wasn't
7 supposed to be, you know, overseeing me or at
8 least Dr. Lento was not supposed to be overseeing
9 me either, and I was very confused because she
10 thought -- and then she also said that McCash
11 didn't feel like he did anything wrong and he
12 isn't capable of apologizing to me because he
13 feels like he didn't do anything wrong. And she
14 said that was where she -- that was her finding.

15 Q. Well, OK. And so did you say anything
16 else at this meeting?

17 A. I just reported what else was going
18 on.

19 Q. What else was going on?

20 A. In terms of the PWC, Physician
21 Wellness Committee and my concerns regarding that.
22 And my concerns regarding how I felt like I was
23 being treated differently than everybody else and
24 I just kind of want, you know, this whole like
25 institutional like actions to stop against me

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2 because I felt like I'm just trying to do my work
3 and I want to be treated like everyone else and
4 I'm not.

5 Q. Anything else that you recall
6 happening or being said at this meeting?

7 A. (After pause) I can't remember right
8 now, but if I recall something.

9 MR. McEVOY: So we'll break for lunch
10 now.

11 Let me say one thing to you and I
12 think Mr. Wronko will confirm that. It's
13 fine for you to have some later
14 recollection, OK? But I would encourage you
15 to think about the things that we're talking
16 about, because if when you get the
17 transcript a month from now or whatever it
18 is you suddenly say, oh, here are ten things
19 I didn't remember, here are ten names I
20 didn't remember, you're going to wind up
21 coming back here because I will have
22 questions about it.

23 So this is really the time, and we're
24 going to come back on other days. So this
25 is really the time to try to refresh your

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2 recollection. But I just wanted to let you
3 know that, so that -- I don't want to
4 mislead you about if you say, oh, I recall
5 something later. Later is a relevant
6 concept. OK?

7 So with that we can take a break.

8 (A luncheon recess was taken at
9 1 p.m.)

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2 AFTERNOON SESSION

3 (Time noted: 2:09 p.m.)

4 L E E N A V A R U G H E S E, resumed and
5 testified further as follows:

6 EXAMINATION BY (Cont'd.)

7 MR. McEVOY:

8 Q. So Dr. Varughese, if you look at the
9 top e-mail in the chain, Defendants' Exhibit 9, I
10 think it is, why did you send Ms. Tiger-Paillex
11 this e-mail?

12 A. Just to note that I had met with her
13 and review the content of our conversation that
14 afternoon to some degree. It's not a complete
15 discussion of what occurred at that meeting.

16 Q. You say in the e-mail, about the
17 second or third sentence, it says, "You indicated
18 that in addition to your investigation, Dr. Pessin
19 had conducted her own investigation, and
20 Dr. Bleiweiss had complained to regarding grossing
21 of a mastectomy specimen on December 8th 2010,
22 which resulted in a 3rd investigation by the
23 Physician Wellness Committee."

24 Do you see that sentence?

25 A. Yes.

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Q. Did Ms. Tiger-Paillex tell you what in particular Dr. Bleiweiss had complained about regarding the grossing of the mastectomy specimen on December 8th?

A. She said she thought there was some sort of patient care related labs related to that specimen and she complained, and that's what she thought.

Q. That's what she thought Bleiweiss was complaining about?

A. Right. And she thought that's why I was referred to the Physician Wellness Committee.

Q. Did she tell you what that lapse was?

A. No.

Q. Did she tell you that Dr. Bleiweiss thought you were responsible for that lapse?

A. Well, actually, I'm not sure if she said there was some sort of lapse. What I think her understanding was there was some sort of lapse, but not exactly why or I don't know if she said it was delayed even. Maybe she thought she said it was delayed. I'm not sure.

Q. What did she say about this complaint by Dr. Bleiweiss resulting in your being referred

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to the Physician Wellness Committee?

A. Can you repeat that?

Q. Sure. Did she say anything about how this complaint by Dr. Bleiweiss about this mastectomy specimen resulted in you being referred to the Physician Wellness Committee?

I know that's what the document, that's what you say in your e-mail, but what did she, Ms. Tiger-Paillex, say to you about how this complaint resulted in your being sent to the Physician Wellness Committee?

A. She just said that that was a reason I was sent to the Physician Wellness Committee.

Q. Then you also say in the e-mail that during the meeting with Ms. Tiger-Paillex she told you that she would provide you with a document which outlined her findings about, I guess as to your grievance. And then you say, it's April 7th, we still haven't received it.

Did you get a document or e-mail or something from Ms. Tiger-Paillex that set forth her findings?

A. Well, she was supposed to provide it to me, but she did not.

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Q. She didn't do it by the date that you say in here she said she would. But did you get it eventually?

A. Eventually she did give me a paragraph.

Q. Let me show you a document.

If you would look at that while the reporter marks it as Defendants' Exhibit 10.

(Defendants' Exhibit 10, letter dated April 11, 2011, to Dr. Varughese from Caryn Tiger-Paillex, Bates No. P533, marked for identification, this date.)

Q. Have you had a chance to review it?

A. OK.

Q. It appears in the form of a letter.

Is this the letter you received from Ms. Tiger-Paillex?

A. Yes.

Q. It's dated April 11, 2011. Is that the day you received it?

A. Yes.

Q. Now, the first part says basically that she's been unable to corroborate your claims against Dr. McCash, correct? Yes?

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A. Yes.

Q. The second part says, "In any event, after the incident, the Acting Chairman and Program Director acted immediately to defuse the situation by requesting that the Chief Resident who was not involved in the incident, supervise and address your assignments and schedules whenever possible."

Is that in fact what happened?

Because we talked a little bit before about --

A. Correct.

Q. -- your relationship with Dr. McCash and Dr. Venya (phon) going forward.

MR. WRONKO: Form objection. You can answer.

A. OK. Well, was that exactly what happened? No.

Q. So what did exactly happen?

A. Well, I was only told that McCash was not overseeing me as a chief resident for that week when I was in surgical pathology. But after that there was no discussion about what his role would be towards me and what kind of -- there was no regulation of any interaction I would have with

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2 them and nobody reported to me that he was not
3 supposed to provide or manage my schedule or
4 assignments.

5 Q. Do you know whether the chairman or
6 the acting chairman or the program director told
7 Dr. Maniar that she should supervise and address
8 your assignments and schedules whenever possible?

9 A. I believe no.

10 Q. Why do you believe no?

11 A. Because I had to contact her and let
12 her know after HR told me that's what was supposed
13 to happen, that that's what she was supposed to be
14 doing.

15 Q. Did she indicate to you that that came
16 as news to her, she didn't know that?

17 Well, let's put it this way. When you
18 contacted her what did she say?

19 A. I don't think she e-mailed me back.
20 She didn't respond to me. But I think she had a
21 discussion of that with someone because I, um, I
22 mean, she indicated that she was going to talk to
23 someone about the e-mail. She didn't respond back
24 to me, but she said, Oh, I'll speak to the program
25 director about that e-mail.

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2 Q. Are you saying that she didn't e-mail
3 you, but she spoke to you?

4 A. Yes. I spoke to her in person.

5 Q. And then it goes on to say that "You
6 have confirmed that since December, Dr. McCash and
7 you have had no direct interactions and that no
8 additional incidents have occurred."

9 Is that correct? Is that what you
10 told Ms. Tiger-Paillex?

11 A. That was what I called Caryn Tiger,
12 yes.

13 Q. Then it finally says, or other than in
14 a final sense, "Additionally, the GME office
15 and the Physician Wellness Committee are working
16 with your Program Director to address issues
17 surrounding your academic progress," and we'll
18 come back to that.

19 So after you received this e-mail, or
20 letter rather, from Caryn Tiger-Paillex, were you
21 satisfied with what her findings were?

22 A. No.

23 Q. Why not?

24 A. Because at the meeting this is not
25 what she had said initially.

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2 Q. And are you referring to the April 5th
3 meeting?

4 A. Right.

5 Q. What did she say at the April 5th
6 meeting that you thought was different than what's
7 reflected in or what's stated in the April 11th
8 letter?

9 A. Well, she didn't say that she could
10 not substantiate my claims. She rather said that
11 McCash's behavior, you know, he doesn't consider
12 himself to be at fault and he has refused to
13 apologize to you in any way and he's not capable
14 of doing that.

15 So she was wondering how she could
16 prevent me from having to interact with him in any
17 meaningful way because of that.

18 Q. Anything else that she said to you at
19 the April 5th meeting that you thought was
20 inconsistent with what she said in the April 11th
21 letter?

22 A. After that meeting I have not, you
23 know, let's see. Right, and the GME office and
24 the Physician Wellness Committee, I didn't realize
25 that they were collaborating on my surrounding

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2 academic issues. I thought they were entirely
3 independent. The PWC, Physician Wellness
4 Committee, is nondisciplinary and not involved in
5 academic issues. It has more to do with physician
6 impairment.

7 Q. Any other way in which you thought
8 that what Caryn said to you at the, um, Caryn
9 Tiger that is, at the April 5th meeting was
10 inconsistent or different from what's in her April
11 11th letter?

12 A. Yes, and she also thought that -- she
13 was concerned that Adrienne Jordan would be the
14 chief resident.

15 Q. What concern did she express about
16 that?

17 A. She was concerned that it would pose a
18 problem for me, a risk for me, if she were the
19 chief resident.

20 Q. What, if anything, did
21 Ms. Tiger-Paillex say about Dr. Jordan's becoming
22 the chief resident posing a risk for you?

23 A. Well, I guess if she wasn't given the
24 position -- she didn't elaborate herself when she
25 said that. She didn't elaborate on her point, and

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1 she just asked me like has there been any issues
2 with you and Jordan as well, and I said there
3 hasn't been any. And I, you know, I have had
4 conversations with her at some point, but I could
5 not recall any incidents at that time.

6 **Q.** So if in your response to
7 Ms. Tiger-Paillex's question you said that there
8 weren't any incidents, you couldn't recall any
9 incidents, did you express any objection to
10 Dr. Jordan becoming the chief resident during your
11 meeting with Ms. Tiger-Paillex on April 5th?

12 **A.** Not at that time, but when I got home
13 I called Ms. Tiger-Paillex up and I just left a
14 voice mail saying that, You know what? I am
15 concerned about Adrienne Jordan being the chief
16 resident.

17 **Q.** Then she couldn't have said anything
18 about it at the April 5th meeting if you didn't
19 call her until after the meeting took place,
20 right?

21 **MR. WRONKO:** Form objection.

22 **A.** Well, she was the one who brought it
23 up.

24 **Q.** That's what I'm trying to understand.

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1 So she asked you, if I understand your testimony,
2 she asked you whether you had any problems with
3 Jordan and you said no.

4 Then she said, Well, I'm concerned
5 about Jordan becoming the chief resident because
6 it would pose a risk for you. Is that what
7 happened?

8 **A.** Yes.

9 **Q.** And you didn't, during the meeting at
10 least, you didn't say anything about or voice any
11 objections to Jordan becoming the chief resident.

12 **A.** Well, I had my reservations, but I
13 didn't want to seem...

14 **Q.** So the answer is no, you didn't voice
15 any objections.

16 **A.** Yes.

17 **Q.** And then later you called and left a
18 message for Ms. Tiger-Paillex that evening and you
19 said you did have those concerns.

20 **A.** Yes.

21 **Q.** Did you say anything else in that
22 voicemail message other than I do have concerns
23 about that?

24 **A.** No.

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1 **Q.** OK. The day after you got the letter,
2 so this would be April 12th we're talking about,
3 did you send an e-mail to Ms. Tiger-Paillex?

4 **A.** April?

5 **Q.** 12th.

6 **A.** 12th?

7 **Q.** The day after that letter.

8 **A.** No, I don't think so.

9 **Q.** Let me show you a document. Maybe it
10 will help refresh your recollection.

11 While you are looking at it, we'll
12 have the reporter mark it as Defendants'
13 Exhibit 11.

14 (Defendants' Exhibit 11, e-mail
15 string, Bates Nos. D-2134 and 2135, marked
16 for identification, this date.)

17 **A.** OK.

18 **Q.** Have you had a chance to look at that?

19 **A.** Yes.

20 **Q.** So did you send the e-mail dated
21 April 12th to Ms. Tiger-Paillex?

22 **A.** Yes.

23 **Q.** And first e-mail in this string, the
24 April 15th e-mail from Ms. Tiger-Paillex to you,

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Varughese

1 it's at the top of the page, is that the e-mail
2 you received in response?

3 **A.** Yes.

4 **Q.** So in your e-mail you tell
5 Ms. Tiger-Paillex that you would like to request
6 FMLA leave.

7 **A.** Correct.

8 **Q.** And in her response she forwards you,
9 I guess attaches to the e-mail, the paperwork that
10 you need to complete.

11 **A.** Yes.

12 **Q.** Did you ever complete the paperwork?

13 **A.** No.

14 **Q.** Why not?

15 **A.** I just -- I didn't have -- I mean, I
16 didn't have a treating physician.

17 **Q.** So did you not complete the paperwork
18 because you didn't have a physician who could
19 complete it?

20 **A.** Yes. And, I mean, I just requested a
21 leave because of work-related stress and hostile
22 work environment.

23 **Q.** No, what you did is you requested a
24 family medical leave of absence, right?

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Varughese

A. Yes.

MR. WRONKO: Note my objection.

Answer.

Q. Ms. Tiger-Paillex sent you the paperwork that needed to be completed for that leave to be processed and approved, right?

A. I'm not sure exactly how.

Q. What are you not sure about?

A. OK, well, in terms of what happened at this time was I was -- I was on, um, I was being, you know, asked to meet with Physician Wellness Committee towards the end of March and then I had met with Caryn Tiger-Paillex beginning of April to discuss workplace issues and then I was asked to meet with Physician Wellness Committee again and they wanted me to take the drug test and they were treating me very, um, just really -- I felt, you know, differently and sort of marginalizing me and saying that --

Q. Finish.

A. They were marginalizing me and stating that, you know, I had to take this drug test. I had to speak to Dr. Fersch, their in-house psychologist. And then I had, after the urine tox

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Varughese

screen I had met with Caryn Tiger again on the 11th, and I just felt like even though I had voiced all my concerns, like she had completely ignored everything that I had stated and she also went back on her word or the sentiments she had expressed before on the 5th and...

Q. So what does any of that have to do with your asking for Family Medical Leave Act on the 12th?

A. I just felt like this was becoming very hostile and I was sort of afraid to be at work even.

Q. So you sent an e-mail to Ms. Tiger-Paillex saying "I would like to request family medical leave of absence for work related stress from two weeks hence until June 30."

A. Yeah, because I also felt that McCash and -- this essentially sided with McCash's side in its entirety and --

Q. I want to understand. Is your interpretation of Ms. Paillex saying I can't corroborate your claims siding with Dr. McCash, is that how you interpreted that?

A. Not exactly. I just interpreted it as

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Varughese

what was said here.

Q. Wait, you just said, you just said to me -- I can have the reporter read it back -- you just said to me this document sided completely with Dr. McCash. And I just said to you --

A. No, I mean --

MR. WRONKO: Hold on, let him finish his question.

Q. What I said to you is was it your interpretation of Ms. Paillex's letter which says "I am writing in response to your complaint regarding two separate interactions with your Chief Resident, Dr. McCash, and to let you know the results of my investigation into this matter. After interviewing a number of witnesses to the events at issue, I was not able to confirm your version of events, or to substantiate your claims of harassment, abusive behavior or abuse of power."

That's everything that Ms. Tiger-Paillex says about the results of her investigation, correct?

MR. WRONKO: Form objection. You can answer.

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Varughese

A. Well, she goes on to say --

Q. I know what she goes on to say. She talks about Dr. Maniar and she talks about the GME piece of it.

But in terms of her response to your allegations about the two incidents regarding Dr. McCash, the two sentences I just read are her findings regarding your complaint about those two incidents, correct?

MR. WRONKO: Form objection. You can answer.

A. Yes.

Q. So I go back to my question. Did you interpret those two sentences that I just read to you as Ms. Tiger-Paillex's siding completely with Dr. McCash?

A. Not completely, but showing that this is what she believes has occurred and she's communicating her position to me, and...

Q. And I understand that you didn't agree with that, but my question, because I'm really asking you the question based on what you said --

A. OK.

Q. -- because you said to me in answer to

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Varughese

1 one of my questions that this document shows or
2 says that she completely, she being Caryn
3 Tiger-Paillex, sided completely with Dr. McCash in
4 this incident. And you told me that's not what
5 you meant, so fine. Right?

6 So going back to the Family Medical
7 Leave Act, you make a request to take family
8 medical leave, right? On April 12th.

9 A. Yes.

10 Q. And Ms. Tiger-Paillex in her response
11 on the 15th says, "In regards to your request for
12 FMLA leave, you are entitled to such a leave if
13 you have a serious health condition that prevents
14 you from performing an essential function of your
15 job," and then refers you to the appropriate part
16 of the House Staff Manual.

17 "If you have a serious health
18 condition that qualifies you for a leave of
19 absence, please have your doctor complete the
20 attached health certification and forward it to my
21 office by April 29," which is two weeks later.

22 And then she said after she gets the
23 documentation they'll go about processing and
24 approving your leave. Right? Is that what it

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Varughese

1 says?

2 A. Yes.

3 Q. I take it that the FMLA forms were
4 attached to the e-mail, you got them?

5 A. I believe that's how it was sent, yes.

6 Q. You said to me, I asked you if you had
7 the forms completed and you said no. Now I asked
8 you why. And I thought you said because you
9 didn't have a doctor to complete them; is that
10 right?

11 A. Yes, I didn't have a treating M.D.

12 Q. So did you consider going to -- I
13 mean, you work in a hospital. Did you consider
14 asking for a referral to a physician or going to
15 see some physician who could assist you in
16 completing those forms?

17 A. Well, at that point I had moved, you
18 know, there was a lot of things going on in my
19 personal life in terms -- not a lot, just simply
20 that I had moved from my home in Manhattan or
21 New York City to Brooklyn and so I -- I did have a
22 therapist at that time who I was speaking to and I
23 wasn't able to keep my -- I wasn't able to keep
24 meeting with her because of the move and, I mean,

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Varughese

1 I was really concerned about all these incidents
2 and had been speaking to her about it. And after
3 this document, which essentially I felt devalues
4 me as an individual by --

5 Q. By what?

6 A. By stating that, you know, this is the
7 finding of our investigation, and I just felt more
8 afraid to be at work. I didn't know what kind
9 of --

10 Q. I don't mean to interrupt you, but I'm
11 only asking you why you didn't complete the form.
12 OK? And you said to me because you didn't have a
13 doctor. And I asked you, well, couldn't you have
14 gone to somebody at your hospital for a doctor?
15 Couldn't you have gotten a referral to see another
16 physician who could have assisted you and
17 evaluated you to complete this form?

18 MR. WRONKO: Form objection.

19 Q. So did you seek a referral to another
20 physician to help you complete this form?

21 A. No.

22 Q. And I take it from what you said you
23 didn't complete the form?

24 A. No, I did not complete the form

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Varughese

1 because the person who I would speak to regarding
2 completing the form I had to take a break from
3 meeting with because of my move.

4 Q. I understand. So tell me why now you
5 think that that Caryn Tiger letter of April 11th,
6 how you believe that devalued you?

7 A. Because I felt that as a woman of
8 Indian descent, I felt that what I had said had
9 occurred and my statements are not, were not being
10 taken seriously.

11 Q. So did you believe that Caryn Tiger
12 didn't credit what you said because you were a
13 woman of Indian descent?

14 A. Well, I believe that --

15 Q. It's a pretty simple question. Did
16 you believe that Caryn Tiger came to the
17 conclusion she came to about your complaints
18 against Dr. McCash because she devalued your
19 version of events because you were a woman of
20 Indian descent?

21 MR. WRONKO: Form objection. You've
22 got to let her answer.

23 MR. McEVOY: If she answers it, I'm
24 happy to let her answer.

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1 Varughese
 2 MR. WRONKO: Well, she said two words.
 3 You've got to let her answer.
 4 MR. McEVOY: The answer should be yes
 5 or no and then I will ask her why.
 6 Q. Is that your belief?
 7 MR. WRONKO: Answer it however she
 8 wants. Go ahead.
 9 A. Yes, I believe that it had something
 10 to do with it.
 11 Q. And what's the basis for that belief
 12 other than the fact that you are a woman of Indian
 13 descent?
 14 A. Well, when I noticed that McCash --
 15 Q. I'm talking about Ms. Tiger now.
 16 A. Ms. Tiger?
 17 Q. Yes. I want to be clear about this.
 18 I just asked you whether you thought that
 19 Ms. Tiger-Paillex wrote what she wrote in there.
 20 And by that I mean that she said she couldn't
 21 corroborate your version of the events, that she
 22 devalued you because you're a woman of Indian
 23 descent.
 24 And the question I asked you is do you
 25 believe that Ms. Tiger-Paillex came to the
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1 Varughese
 2 conclusion she came to and didn't credit your
 3 version of the events because you're a woman of
 4 Indian descent. And in response to that question
 5 you said, Yes, I think so.
 6 And I said, Why do you believe, what's
 7 the basis of that belief that that's what
 8 Ms. Tiger-Paillex did other than the fact that we
 9 all agree with the fact that you're a woman of
 10 Indian descent?
 11 MR. WRONKO: Form objection. I even
 12 don't know if there's a question in there.
 13 MR. McEVOY: There is a question.
 14 What's the basis -- go ahead, I'm sorry.
 15 MR. WRONKO: And then this is the
 16 second time where she said two words and
 17 then you cut her off and went on a diatribe.
 18 You have to let her answer if you're going
 19 to ask questions.
 20 MR. McEVOY: And she has to be
 21 responsive to the answer. And if I ask her
 22 a question about Caryn Tiger-Paillex and she
 23 tells me what Dr. McCash did, that's not
 24 responsive. And I don't quite frankly have
 25 to sit here and let her go on and on about
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1 Varughese
 2 Dr. McCash when the question is about Caryn
 3 Tiger-Paillex.
 4 MR. WRONKO: Two words isn't going on --
 5 and on and on. You didn't even allow her to
 6 make a sentence. So don't say she's going
 7 on and on and on. She said two words.
 8 MR. McEVOY: She said Dr. McCash did
 9 the following. I don't care about --
 10 MR. WRONKO: OK, but you didn't know
 11 where the thought was going to lead.
 12 MR. McEVOY: I think I have a pretty
 13 good idea.
 14 MR. WRONKO: So counsel, I think that
 15 you're immediately assuming, you're making
 16 assumptions of what she's going to say
 17 before she says it.
 18 MR. McEVOY: So I'll ask the question
 19 again.
 20 BY MR. McEVOY:
 21 Q. What's the basis for your belief,
 22 Dr. Varughese, that Caryn Tiger-Paillex came to
 23 the conclusions that she came to in that letter
 24 about your complaints about Dr. McCash because you
 25 were a woman of Indian descent?
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1 Varughese
 2 A. Just the fact that when I met with her
 3 on April 5th and to April 11th her tone had
 4 completely changed towards me in our meeting.
 5 Before she was, you know, more interested in
 6 finding out what happened and essentially just
 7 being more -- she wasn't confrontational in any
 8 way. You know, she spoke to me in a very
 9 respectful friendly manner and I felt when I met
 10 with her again her tone had changed a lot.
 11 She just presented me with this
 12 letter. It wasn't -- I mean, there's an e-mail I
 13 wrote that sort of shows sort of like a dialogue
 14 that is not, you know, very confrontational and
 15 just sort of more trying to understand the
 16 circumstances of the situation. So this
 17 particular letter, that's like -- which I feel is
 18 almost official, that doesn't necessarily -- it
 19 doesn't really make sense when you consider --
 20 when I considered my meetings and the letter I got
 21 here.
 22 Q. So assuming for the sake of this
 23 question that Ms. Tiger-Paillex's tone changed
 24 between the first meeting you had with her back in
 25 March and the letter you got in April, why -- do
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Varughese

1 think her tone changed because you're a woman of
2 Indian descent?

3 A. No, I -- the thing is I met with her
4 on April 5th and she was like, So, how are things
5 at the floor? What are your interactions? And I
6 was shocked to find out I'm supposed to have most
7 of my mediations and interactions go through Kruti
8 Maniar and not through McCash and Dr. Lento.

9 It was all news to me. I had no idea.

10 Q. I understand.

11 A. And then I also didn't -- then she was
12 like, So what's going on with Dr. Jordan? And
13 like I had nothing to report other than, you know,
14 I was a little concerned about her being chief
15 resident. As me having a year of more experience,
16 I just felt that perhaps she wasn't the best
17 person for that position that year.

18 Q. And what does any of that have to do
19 with the fact that you're a woman of Indian
20 descent?

21 A. Well, then I called her and left her a
22 voice mail just stating my concern that, you know,
23 I'm concerned that Adrienne Jordan is going to be
24 the chief next year, and then four days later I

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Varughese

1 get this letter that's like very --

2 Q. I understand all of that,
3 Dr. Varughese. My question is, what's the basis
4 for your belief that that letter has anything, the
5 contents of that letter has anything to do with
6 the fact that you're a woman of Indian descent?

7 A. Just, you know, after this letter and
8 given my discussion, what I had told her, and even
9 on April 11, I just got a sense that I wasn't
10 being treated the same way and I wasn't being
11 given the benefit of the doubt and they were
12 essentially taking the side of Dr. --

13 Q. We're talking about Ms. Tiger-Paillex
14 at the moment. Just stay focused on her.

15 A. Right, I'm going to --

16 MR. WRONKO: Counsel, you can't keep
17 interrupting her. She's in the process and
18 you're interrupting her.

19 A. They were taking Dr. McCash's and
20 Dr. Jordan's viewpoint and taking their side in
21 this whole matter and essentially, you know,
22 telling me that, you know, they couldn't
23 corroborate what I had said had occurred.

24 Q. And --

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Varughese

1 A. And that made me feel --

2 Q. Now you're interrupting me. And you
3 weren't treated the same way as who?

4 A. I wasn't being treated the same way as
5 Dr. Jordan and as Dr. McCash.

6 Q. And in what way were they being
7 treated differently than you were at this point in
8 time that we're talking about?

9 A. Well, I was not told of any actions
10 that were taken against Dr. McCash. Dr. Jordan I
11 did not ever complain about or have any -- well,
12 did not ever, but I did not say anything to
13 anybody about Dr. Jordan's interactions with me.

14 But I just felt that they were being
15 promoted, you know, Dr. Jordan was being promoted
16 to chief resident and then Dr. McCash is also
17 being promoted and he continues to have his chief
18 resident position and they continue to do whatever
19 they feel as they should do.

20 But I felt that while I'm on all these
21 rotations I'm having difficulty just being ability
22 to manage, just being able to obtain the very
23 basics of what is required for a pathology
24 residency in terms of education, in terms of

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Varughese

1 material, work materials, and collectively I just
2 felt that it was discriminatory.

3 In addition, I felt the PWC,
4 Physicians Wellness Committee, I felt that was
5 very discriminatory and I felt stigmatized with
6 some sort of issues and they were telling me I had
7 all these mental health issues which, you know,
8 for Physicians Wellness Committee -- Dr. Figur is
9 a hematologist --

10 MR. McEVOY: Mr. Wronko, do you think
11 your client is being responsive to whatever
12 the last question I asked?

13 MR. WRONKO: Yes.

14 MR. McEVOY: Well, I disagree with
15 you.

16 MR. WRONKO: You're entitled to
17 disagree.

18 MR. McEVOY: I am, and I'm also
19 entitled to control this deposition and not
20 let the witness simply talk at length in a
21 narrative form that stops being responsive
22 to the question.

23 MR. WRONKO: Well, if you listened to
24 my objection, my objection was with regard

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1 Varughese
2 to the fact that she had merely stated two
3 words and that's when you cut it off.
4 MR. McEVOY: We're well past that.
5 MR. WRONKO: I have never said that if
6 she goes on beyond the scope of the question
7 that you can't stop her.
8 BY MR. McEVOY:
9 Q. So Dr. Varughese, let me stop you for
10 a second. With regard to Dr. McCash, right? At
11 the time the incident occurred in September of
12 2010 he was already the co-chief resident,
13 correct?
14 A. Yes.
15 Q. So what promotions did Dr. McCash get
16 after you complained about him?
17 A. Well, he got the summative evaluation.
18 Q. A summative evaluation is not a
19 promotion, is it?
20 A. Well, effectively, yes. You know,
21 he's going to get the summative evaluation and go
22 on to take the board exams and get on with his
23 life and his career.
24 Q. So other than the summative evaluation
25 that you believe is a promotion, did Dr. McCash

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1 Varughese
2 get any other promotions after you complained
3 about him?
4 A. He continued to have his chief
5 resident responsibilities.
6 Q. So if he's already the chief resident
7 and he continues as the chief resident --
8 A. Well, he --
9 Q. No, don't interrupt me. -- that's not
10 a promotion, is it?
11 A. No. But it's a continued status.
12 Q. I agree with you there. You said you
13 didn't make any complaints about Dr. Jordan during
14 the period of time we're talking about, correct?
15 A. Which period is this?
16 Q. This period up till April of 2011.
17 Correct?
18 A. I did not make any complaints about
19 her. I believe I mentioned that she may have been
20 involved in the incident. But I did not say that
21 she's responsible for Sam McCash's behavior.
22 Q. So if you didn't make any complaints
23 about her or her being responsible for
24 Dr. McCash's behavior, why do you say that her
25 being promoted to chief resident for the following

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1 Varughese
2 year is somehow treating you differently than
3 she's been treated?
4 A. Because there's a professional
5 environment. I feel like she did what they wanted
6 her to do and she got the promotion.
7 Q. What is it that you think -- who are
8 the "they"?
9 A. Meaning Dr. Lento or Dr. Schiller or
10 Dr. Bleiweiss expected her to do.
11 Q. What did you think that these
12 individuals expected her to do?
13 A. Well, I'm not -- can you rephrase that
14 question?
15 Q. Well, no, I'm repeating what you said
16 to me. You said you thought that they asked
17 Dr. Jordan to do what they wanted her to do and
18 when she did it she got promoted or words to that
19 effect.
20 So I want to know what it is they, who
21 you've now identified, what they wanted Dr. Jordan
22 to do to secure her promotion to chief resident.
23 A. Well, I felt that she was inherently
24 more, given more respect and valued more as part
25 of the residency than I was, and --

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1 Varughese
2 Q. Well, that's not asking her to do
3 anything. It's just a question of how they
4 evaluated --
5 A. But it's sort of --
6 Q. You're interrupting me again. -- how
7 they evaluated her and maybe as compared they
8 evaluated you.
9 So I will accept your perception was
10 that they valued her more than they valued you in
11 some respects, but I'm still trying to find out
12 whether you think there's something that they
13 asked her to do to become chief resident.
14 MR. WRONKO: Form objection.
15 Q. You can answer.
16 A. I'm not sure they asked her to support
17 Dr. McCash's version of events.
18 Q. Do you know if she did?
19 A. I'm not sure.
20 Q. I'm correct, aren't I, Dr. Varughese,
21 that you met with Caryn Tiger in person twice
22 during this April time period? I'm sorry, you met
23 with her in person on April 5th and you met with
24 her in person when you first made your complaint
25 back in December.

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Varughese

A. Right.

Q. After the first of the year.
Yes?

A. Yes.

Q. OK. After the e-mails that I just showed you that were April 12th and April 15th, did you have any other or any further communication with Ms. Tiger-Paillex about the Sam McCash situation?

A. Other than April 15th?

Q. Yes, after April 15th.

A. Yes, I spoke to her again.

Q. When was that?

A. I'll not sure if I spoke to her again at the end of April and then again at the beginning of May.

Q. Let me show you a document. Maybe that will help you.

Take a look at that while the reporter marks this as Defendants' Exhibit 12.

(Defendants' Exhibit 12, e-mail dated April 25, 2011 to Caryn Tiger-Paillex from Leena Varughese, Bates No. P1121, marked for identification, this date.)

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Varughese

Do you see that?

A. Yes.

Q. In the third line, second line rather:

"My perception was and is that I am being threatened and berated by a male resident because I am a woman."

Do you see that?

A. Yes.

Q. "I doubt that he would yell or attempt to physically intimidate a male resident and now I am fearful because since my complaint and request for mediation in December, over approximately 4 months ago."

Do you see that too?

A. Yes.

Q. What's the basis for your perception that you were being threatened and berated, I presume by Dr. McCash, because you're a woman?

A. Because he repeatedly intimidated me at least on two occasions. Then he stomped his feet around me and then he slammed doors and all these actions, you know, acts of aggressiveness --

Q. So is it fair to --

A. -- that --

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Varughese

Q. Just let me know when you've finished.

A. OK.

Q. So can you tell me what this document is?

A. This is, it's an e-mail to Caryn Tiger.

Q. From you.

A. Yes.

Q. Dated Monday, April 25, 2011?

A. Yes.

Q. Now, there's obviously a number of things in this e-mail and we'll come back to a number of them. But just generally, Dr. Varughese, why did you send this e-mail to Ms. Tiger-Paillex on April 25th?

A. To explain my position regarding what's happened and I just wanted her to understand that this is, really this is what I was complaining about and just inform her if she wasn't informed.

Q. So let me just ask you about one part of it in particular at the moment.

In the fourth paragraph, the one that starts "I filed a grievance with human resources."

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Varughese

Q. I'm sorry.

A. -- that I felt were based on my gender, so that's why I said that.

Q. Do you think that Dr. McCash liked you?

A. Well, I don't think that --

MR. WRONKO: Form objection. You can answer.

A. I don't think gender discrimination has to do with whether or not --

Q. I didn't ask you what you thought about gender discrimination. I asked you whether you thought Dr. McCash liked you.

A. Well --

MR. WRONKO: Form objection. You can answer.

A. I don't know what he thought.

Q. So why do you think that -- accepting everything you say, Dr. Varughese, about how Dr. McCash behaved towards you on the two incidents, the stomping of feet, everything else that you've told me, what's the basis for your belief that he did that because you're a woman as opposed to maybe he just didn't like you?

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Varughese

1
2 A. Well, in terms of whether or not he
3 liked me, I got very interesting mixed signals
4 from him. There have been times that he would
5 shout at me one minute, tell me I'm a failure, I'm
6 not going to succeed. Then a month later he would
7 ask me if I wanted patio furniture. Then a month
8 later he would stomp his feet around again, then
9 yell at me again, threatened me and tell me I'm
10 not going to succeed. And then, you know, that's
11 like a week before he decided he wants to be
12 friends with me.

13 So frankly I'm not -- I'm very
14 confused by the signals that he is sending me.

15 Q. Did Dr. McCash ever say anything to
16 you about the fact that you were a woman, express
17 any dislike for you because you're a woman?

18 A. I felt that his actions spoke louder
19 than his words.

20 Q. That very well may be. But my
21 question is, did Dr. McCash ever make any comment
22 to you about the fact that you were a woman or
23 that he felt that you were, you know, unqualified
24 or whatever he said to you because you're a woman?

25 A. Well, I feel that he may have been
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Varughese

1 motivated by my gender. He was motivated by my
2 gender and likely my race, the fact that I'm a
3 minority.

4 Q. Third time, Dr. Varughese. Did
5 Dr. McCash ever say anything to you about your
6 gender?

7 A. I can't recall.

8 Q. Did anybody ever tell you that
9 Dr. McCash had said something negative about you
10 because you were a woman?

11 A. Well, yes.

12 Q. Who?

13 A. It was implied.

14 Q. OK.

15 A. It was implied it was because I was a
16 woman.

17 Q. Who implied that?

18 A. Just other residents.

19 Q. Who?

20 A. Well, Paul Azar thought, you know, I
21 should be nice to him and --

22 Q. I'm not concerned about what Paul Azar
23 thought.

24 A. I'm sorry. Can you repeat that
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Varughese

1 question?

2 Q. Sure. Did anybody ever come up to
3 you, Dr. Varughese, and say, you know what, Leena?
4 I just was talking to Sam McCash and he said, I
5 don't like Leena because she's a woman. A woman
6 shouldn't be here. She's just some annoying
7 female.

8 Did anybody ever tell you Dr. McCash
9 said any negative comments about you because of
10 your gender?

11 A. I don't recall.

12 Q. Did Dr. McCash ever make any comments
13 to you or make any comment about the fact that
14 you're of Indian national origin?

15 A. Not directly to me.

16 Q. Did anyone tell you he had made them
17 to anyone else?

18 A. No.

19 Q. So just to be clear, as you sit here
20 today you can't recall any comment that Dr. McCash
21 made to you about the fact that you're a woman or
22 the fact that you're of Indian descent, correct?

23 A. I can't recall.

24 Q. And similarly, you don't have any
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Varughese

1 recollection of anybody ever telling you that
2 Dr. McCash made comments about your gender or
3 national origin.

4 A. No.

5 Q. Then you go on to say in here that you
6 "doubt that he would yell or attempt to physically
7 intimidate a male resident."

8 What's the basis for that belief?

9 A. Well, I never saw him intimidate a
10 male resident.

11 Q. Did you spend every hour of every
12 working day with Dr. McCash?

13 A. No.

14 Q. Do you see every interaction
15 Dr. McCash has with every other resident?

16 A. No.

17 Q. Did Ms. Tiger-Paillex respond to your
18 e-mail that we just looked at? The April 25th
19 e-mail I believe it is.

20 A. This one?

21 Q. Yes, the one you're looking at.

22 A. She may have, yes.

23 Q. Let me show you a document. So you
24 take a look at that document, Dr. Varughese, while
25

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I ask the reporter to mark it as Defendants' Exhibit 13.

(Defendants' Exhibit 13, letter dated April 29, 2011 to Dr. Varughese from Caryn Tiger-Paillex, Bates No. P534, marked for identification, this date.)

A. OK.

Q. Have you had a chance to look at it?

A. Yes.

Q. Do you recognize it?

A. Yes.

Q. Can you tell me what it is?

A. Let's see. It's a letter that Caryn Tiger addressed to me.

Q. So it's a letter dated April 29, 2011.

A. Yes.

Q. Sent from Caryn Tiger-Paillex to you.

A. Correct.

Q. How did you receive it?

A. I physically picked it up.

Q. And in this letter in the first bullet point Ms. Tiger-Paillex says, among other things, that "Mount Sinai has strict policies prohibiting workplace discrimination or retaliation, and takes

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what had occurred the next day, and, you know, and the letter on December 13th and I just didn't think it would really change anything and it would be entirely a waste of time.

Q. In the second bullet point

Ms. Tiger-Paillex says that during your meeting on, I presume on April 5th, she told you that it was her understanding that Dr. Pessin had previously told you that you should feel free to interact with Dr. Maniar rather than with Dr. McCash.

Did Dr. Pessin tell you that?

A. Dr. Pessin told me that on December 10th.

Q. Then in the third bullet point it says, Your suggestion that your schedule should have been changed so that you and Dr. McCash not work at the VA at the same time is perplexing. You currently work in the same hospital as Dr. McCash, and by your own account you have had no further incidents. Moreover, at the VA you will be on two separate rotations and Dr. McCash will not be supervising you, so you're not likely to interact."

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such complaints very seriously. To enable me to investigate this complaint fully, please contact my office at" whatever the number was, "to arrange for a time for us to meet."

Do you see that? The end of the first bullet point.

A. Yes.

Q. Yes?

A. Yes.

Q. Did you arrange a meeting or contact Ms. Tiger-Paillex to follow up on this complaint?

A. No.

Q. Why not?

A. I just felt that any further complaining about workplace harassment and retaliation would be futile and it would not be taken seriously and I felt the contact prior to this letter by my superiors and HR and PWC informed me of that. And I just did not think it would be in my best interest.

Q. Did you think that Ms. Tiger-Paillex was willing to investigate your complaint?

A. Well, I felt that the complaint would still return to the events on December 8th and

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Varughese

While you were at the VA were you and Dr. McCash on two separate rotations?

A. Yes.

Q. And I take it, was Dr. McCash supervising you at the VA?

A. No, he was not supposed to be.

Q. Now, one other thing, two other things and then we'll take a little break. They should both be relatively short.

Let me show you a document. While you're looking at it we'll mark it as Defendants' Exhibit 14.

(Defendants' Exhibit 14, One-page document bearing heading "Specimens grossed on 12-08-2010," marked for identification, this date.)

Q. Have you had a chance to look at that?

A. Yes.

Q. I will say just for the record that it's a document that was produced by Mr. Wronko in response to the hospital's discovery request. So can you tell me what it is?

A. Yes, these are the specimens that were grossed by me from 12/8/2010 and the following

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- 1 day.
- 2 Q. Is this a printout of something?
- 3 Where does this document come from?
- 4 A. I just made a list of the cases that I
- 5 had grossed, that I kept an account of.
- 6 Q. I take it also a list of the cases
- 7 that Dr. Azar and Dr. Jordan had grossed as well.
- 8 A. Correct.
- 9 Q. Where did you get the information from
- 10 which you compiled the list?
- 11 A. I just had this information. I keep a
- 12 tally of all the cases that I work on as I work on
- 13 them.
- 14 Q. When did you compile this list?
- 15 A. I just compiled the list most
- 16 recently, you know, for discovery requests.
- 17 Q. I'm not interested in conversation
- 18 that you had with Mr. Wronko, but was there some
- 19 particular reason that you compiled this list?
- 20 A. Just to make a note of the amount of
- 21 work that I was responsible for and the work
- 22 that...
- 23 Q. The others were responsible for.
- 24 A. The work that moonlighters performed

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Varughese

- 1 as part of their responsibilities.
- 2 Q. A little earlier I had asked you about
- 3 other conversations you had had with --
- 4 A. Oh, actually, can we go back to that?
- 5 Q. Sure.
- 6 A. It also notes the different cases that
- 7 were, you know, "grossed" by the different people
- 8 there, including myself and I believe Paul Azar
- 9 grossed -- well, Paul Azar grossed five cases here
- 10 and of them he had performed part B of PS10-25072
- 11 and he grossed part B and C of PS10-25163, and I
- 12 presume they were probably breast cases or
- 13 margins. And then he also grossed PS10-25173,
- 14 part A through D.
- 15 Just to note, that these cases, you
- 16 know, are probably the cases that I asked him to
- 17 gross and Dr. Jordan grossed of the breast cases I
- 18 believe MS10-79920, part A and B. And I grossed
- 19 part D through E of that case. So essentially she
- 20 had decided to gross those specimens without even
- 21 me even asking her to.
- 22 Because I believe at some point
- 23 Dr. Pessin had stated that we were not -- her
- 24 understanding was the specimens cannot be divided,

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- 1 so to be grossed by the moonlighter or some of the
- 2 residents or somebody else in the program. But
- 3 the moonlighters being available, we did that
- 4 routinely. A lot of our cases were split up to be
- 5 grossed, parts of it to be grossed by Azar or
- 6 Jordan or whoever the moonlighter was for that
- 7 day.
- 8 Q. Anything else you wanted to say about
- 9 that document?
- 10 A. Just to make a note that I grossed
- 11 more than -- I believe I grossed about 14
- 12 specimens and the complexities of all of them, for
- 13 a majority of them, were quite high.
- 14 Q. Let me show you another document and
- 15 then we'll take a break.
- 16 MR. WRONKO: While the witness is
- 17 reviewing it we'll mark it as Defendants'
- 18 Exhibit 15.
- 19 (Defendants' Exhibit 15, one-page
- 20 e-mail to Leena Varughese from Dr. Lento
- 21 dated January 10, 2011 Bates No. D-2113,
- 22 marked for identification, this date.)
- 23 Q. Have you had a chance to look at that?
- 24 A. Yes.

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- 1 Q. Do you recognize this document?
- 2 A. Yes.
- 3 Q. Can you tell me what it is?
- 4 A. It's an e-mail sent to me by Lento.
- 5 Q. It's an e-mail to you from Dr. Lento
- 6 dated January 10, 2011 with cc's to Freda Burstyn
- 7 and Melissa Pessin-Minsley.
- 8 So do you recall meeting with
- 9 Dr. Lento and Ms. Burstyn on January 10th, 2011?
- 10 A. Yes.
- 11 Q. And how did that meeting come about?
- 12 A. I'm not completely sure how this
- 13 meeting came about, but essentially I had filed a
- 14 grievance with HR and I had also reported my
- 15 concerns and my version of events to Dr. Lento and
- 16 Pessin and I had not heard anything back from them
- 17 and -- well, I was working with Dr. Lento at that
- 18 time on the autopsy rotation, but I hadn't spoken
- 19 to him regarding the letter I had sent to them.
- 20 And they wanted to meet with me regarding the
- 21 academic advisement.
- 22 Q. Who is Ms. Burstyn?
- 23 A. Well, this was the first time I had
- 24 met her. She's essentially an administrator.

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Varughese

Q. Administrator of what?**A.** For the department of pathology, but she works for some other department. I'm not sure about that.**Q.** So where did this meeting take place?**A.** This took place in Freda Burstyn's office.**Q.** Other than you and Dr. Lento and Ms. Burstyn, anybody else present?**A.** No.**Q.** What was said at this meeting about the incident with Dr. McCash on December 8, 2010?**A.** What was said? Just they said that even though -- even if I disagree with the academic advisement I am still on academic advisement and I'm expected to understand that I'm still on academic advisement.**Q.** Did they say anything else about the incident in December other than that you're still on academic advisement?

MR. McEVROY: Excuse me one second.

(A very brief recess was taken.)

(A portion of the record was read.)

A. Yes, just that I couldn't appeal the**Computer Reporting NYC Inc.**
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A. What did I say at the meeting? I think I just reiterated that, you know, about what my concerns were and that's it.**Q.** One other quick thing which I didn't show you before. I will show it to you now.

Take a look at that, Dr. Varughese, and let me know when you've had a chance to review it.

MR. McEVROY: In the meantime we'll mark it as Defendants' Exhibit 16.

(Defendants' Exhibit 16, e-mail dated December 23, 2010 from Leena Varughese to Lento and Pessin-Minsley, with attachment, Bates Nos. D-853 and 854, marked for identification, this date.)

Q. Do you recognize this document?**A.** Yes.**Q.** Can you tell me what it is?**A.** It's e-mail I sent to Dr. Lento and Dr. Pessin on December 12, 2010.**Q.** Is it December 12th or December 23rd?**A.** December 23, 2010, excuse me.**Q.** It attaches the summary of, your summary of the incident with Dr. McCash.**Computer Reporting NYC Inc.**
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academic advisement. I'm expected to be on it, understand that I'm on it. They're going to investigate again and the investigation's findings have not been determined yet.

Q. The investigation about the December 8th incident.**A.** Right.**Q.** Anything else said at the meeting?**A.** Dr. Lento said I was being very professional and that's what's expected of me and I believe he may have made some comment about you're smart, professional. I mean, I don't know if he said I'm smart, but he definitely said I was being professional.**Q.** What did you say, if anything?**A.** Strike that from the record that he may have said I'm smart.**Q.** He can't strike anything from the record. You can correct it, but you can't strike it. Everything that gets said gets taken down.**A.** OK.**Q.** Did you say anything at the meeting?**A.** I spoke very little.**Q.** What did you say?**Computer Reporting NYC Inc.**
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A. Yes.**Q.** So did you send this to Dr. -- and I'm not trying to trick you. You sent this to Dr. Pessin and Dr. Lento the same day you sent it to Caryn Tiger, correct?**A.** Yes.**Q.** And the attachment is, although the heading is different, one says grievance and this says Drs. Lento and Pessin-Minsley, the substance of that, the content is the same, correct?**A.** Yes.**Q.** Last question before I take a break. Other than the people that you've told me about who you told about the incident involving Dr. McCash, and you sent the complaint, I'll call it the complaint or the grievance, to Drs. Lento and Pessin and to Ms. Tiger-Paillex, do you know who, if anyone, they told about your complaint?**A.** They told about my complaint?**Q.** Yes. So for example, do you know whether Ms. Tiger-Paillex or Dr. Pessin or Dr. Lento told Dr. Morency about your complaint?**A.** I know Dr. Pessin had spoken to Dr. Stimmel at some point, because he had said so.**Computer Reporting NYC Inc.**
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2 I know Dr. Schiller had spoken to Dr. Pessin at
3 some point as well.
4 Q. I'm asking you about Dr. Morency.
5 A. Oh, Dr. Morency. If they had told
6 Dr. Morency?
7 Q. Do you know if Dr. Morency knew that
8 you made this complaint?
9 A. No, she wasn't even the chief resident
10 at that time, so...
11 Q. Do you know if these individuals, and
12 I'm talking about Pessin, Lento and Tiger-Paillex,
13 if they told Dr. Nyfeld about your complaint?
14 A. At that point you're almost a year
15 prior, no.
16 Q. Do you know whether they told Scott
17 Barnett? You know who that is.
18 A. Yes.
19 Q. Did you know whether they told Scott
20 Barnett about your complaint?
21 A. Probably, yes. They probably told
22 him.
23 Q. Why do you say probably?
24 A. Because he's the dean of graduate
25 medical education.

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Varughese

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2 Q. And do you know whether they told Paul
3 Johnson about your complaint?
4 A. Well, possibly, because they work
5 together. I mean, it's possible. I don't know.
6 I don't know if they --
7 Q. I just want to know whether you know
8 or not. I guess anything is possible.
9 Do you know whether they ever told
10 Ms. Patel, Shema Patel, about your complaint?
11 A. At that time, no, I mean, December 23,
12 2010.
13 Q. It's not just at that time. It's at
14 any time. Do you know whether at any time over
15 the course of your employment until you left in
16 September of 2011, do you know if Dr. Morency or
17 Ms. Patel or --
18 A. Oh, in that course of event? Yes, I
19 believe all these people were probably informed.
20 Q. When you say you believe they were
21 probably informed, do you know that they were
22 informed or is that just your belief?
23 A. Well, I know that Dr. Pessin, Barnett,
24 Paul Johnson, Shema Patel, they were definitely
25 informed. Dr. Morency technically should not be

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Varughese

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2 informed because she is a co-resident, coworker,
3 even if she's a chief, who should not be informed
4 about what's going on, disciplinary goings on with
5 me.
6 Q. What about Dr. Nyfeld?
7 A. Dr. Nyfeld might have been informed.
8 Q. Do you know?
9 A. In my opinion? Well, I don't know for
10 sure. I think she was, but...
11 Q. Similarly, when you say that Ms. Patel
12 was informed, what's the basis for your belief
13 that she knew about your complaint?
14 A. Well, my basis for that is that she
15 was actually involved in all the meetings, the two
16 meetings that I -- the two meetings where I met
17 with Firpo, Dr. Firpo, she was also present. And
18 in the meeting I met with Cordon-Cardo she was
19 also present.
20 Q. I'm not asking you whether she knows
21 something about what your situation was just so
22 that we're clear.
23 You made a complaint on December 23rd,
24 right? to Pessin, Lento and Tiger-Paillex and you
25 attached to the e-mail the details of your

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2 complaint.
3 Do you know whether Pessin or Lento or
4 Tiger-Paillex shared that complaint, told people
5 that you made a complaint to anybody other than
6 the individuals you've already identified?
7 So the fact that Ms. Patel was at some
8 meeting with Dr. Firpo several months later, do
9 you know whether anybody ever told Ms. Patel, not
10 that there had been an incident, not that there
11 had been a problem, but that Dr. Varughese made a
12 complaint against Dr. McCash?
13 Do you know whether she ever knew that
14 or that anybody ever told her that?
15 A. Shema Patel, um, I believe she had
16 been informed.
17 Q. What's the basis for that belief?
18 A. Because she's an administrator and...
19 MR. McEVOY: Why don't we take a
20 five-minute break.
21 (A recess was taken from 3:24 p.m. to
22 3:29 p.m.)
23 MR. McEVOY: So in an off-the-record
24 discussion, a couple of things, Mr. Wronko
25 informs me that the witness has a headache,

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Errata Sheet

Subject: Transcript of day #1 of deposition plaintiff, Dr. Leena Varughese, which was conducted on May 23, 2013

PAGE	LINE	CORRECTION
14	6	Insert "up" after "following"
14	7	Correct "or insuring" to "and ensuring"
15	11	Correct "--" to "further processing in chemicals"
17	11	Correct "They" to "The chief residents"
18	18	Correct "microscope" to "magnifying glass"
19	11	Add "or PGY-2" before "year"
21	9	Delete "sort of"
25	14	Delete "1 to"
26	18	Correct "and" to "in"
26	21	Correct "conference" to "call"
28	23	Add "was" after "There"
34	25	Correct "Laura" to "Leena"
39	6	Correct "he" to "it"
39	14	Correct "Jacqueline Hecthman" to "Jaclyn Hechtman"
40	10	Correct "had" to "said"
40	12	Correct "Don't take that." to "Don't say that."
47	8	Correct "No." to "Yes."
50	20	Correct "him" to "McCash"

PAGE	LINE	CORRECTION
51	17	Delete “not”
52	6	Add “his records of several instances of abusive and harassing behavior towards me including the interfering in decision to manage work with my coworker, accusations related to moonlighting, problems with scheduling required rotations, threats directed at me, and inappropriately touching me on the shoulder.” in place of “--”
52	15	Correct “I am not sure now. I am not a hundred percent sure certain.” to “Yes, I did.”
53	4	Correct “with” to “out of”
53	6	Delete “just”, “[period]”, “had”, and correct “allowed” to “allow”
53	8	Correct “Sinai” to “Mount Sinai Hospital.”
54	11	Correct “Jacqueline Hecthman” to “Jaclyn Hechtman”
55	9	Delete “not”
55	10	Delete “not”, “if”, and “but”
56	21	Correct “gross” to “grossing”
59	19	Add “Valentin” before [period]
59	23	Delete “was primarily --”
60	13	Delete “...” and add “only at my discretion as the sole resident on surgical pathology service, not chief residents or moonlighters, according to moonlighting policy.”
63	8	Correct “. So I just asked her just simply like,” to “, so I talked to her.”
63	8-9	Delete “since I was a primary --”
63	9	Correct “since I was a resident” to “Since I was the only resident”

PAGE	LINE	CORRECTION
63	13	Add "as to why Jordan was doing with specimens when I had not requested a moonlighter for assistance." after "on"
66	8-10	Correct "Earlier that day, So she had gone under way with beginning to gross gross or prosect the specimen" to "Earlier that day, she had gotten underway with grossing of specimens as a moonlighter without my request for her moonlighting services."
67	23	Correct "Yeah, I am not sure if it was -- I don't think we had that" to "We did not have that"
68	4	Add "room" after "grossing"
68	21	Remove ".", correct "wasn't" to "weren't", and add "usually grossed by moonlighters." after "just"
70	16	Change "Correct" to "Incorrect"
71	13	Correct "explained" to "explain"
71	15	Add "finish my work." after "can"
71	24-25	Change "Well, listen, just about put it back." to "Well, I will put the specimens back and won't gross them."
72	7	Correct "want" to "went"
72	17	Change "completed" to "resolved"
73	7	Change to "I was working at a grossing station."
75	15	Change "No" to "Yes"
76	20	Correct "come" to "go"
76	23	Add "as dictated by department policy." after "work"
78	4	Correct "I may have said some of those things." to "No."
81	2	Correct "grown" to "gown"

PAGE	LINE	CORRECTION
81	24	Add "what you are asking." to after "sure"
82	19	Add "to grossing room" after "come"
87	3	Add "and McCash cursed at me." after "me"
87	22	Add "McCash started shouting at me again that evening." after "heated"
88	24	Add "I asked him to get away from me and leave me alone." after "have"
89	21-22	Replace answer to "Dr. Jaffer asked McCash to allow me to do my work and leave."
94	12	Add "Paul Azar", "Sarah Frost", "Dianne Grunes"
100	16-17	Add "from December 13, 2010 to December 23, 2010." after "period."
100	21	Add "question." after "particular"
105	6	Delete "sort of"
105	17	Add "myself outside of work" after "enjoy"
105	17	Add "this incident." after "about"
105	18-19	Delete "you know, just trying to be supportive."
108	4	Correct "in" to "of"
108	24	Correct "a" to "the"
109	9	Insert "up" after "Do"
110	8	Correct "on" to "off"
115	2	Change "and how I remember" to "during the meeting with"
124	22	Correct "Megier" to "Maniar"

PAGE	LINE	CORRECTION
137	7	Correct "labs" to "lapse"
137	8	Correct "he" to "Bleiweiss or Pessin"
137	22	Correct "she" to "Bleiweiss or Pessin"
140	14	Correct "Venya" to "Lento"
142	11-12	Sentence should read "That was what Caryn Tiger stated."
146	14	Add "or become a target for further retaliation." in place of "..."
149	24	Correct "Fersch" to "Fersh"
150	25	Correct "Not exactly" to "Yes because Ms. Tiger, HR director, ignored all my concerns regarding my safety and ability to work without harassment."
152	20	Add "told me that McCash feels that he has done nothing wrong and is incapable of apologizing for his actions and behavior towards you. In essence, after over 3 months of investigation, the Director of HR, Ms. Tiger completely ignored my complaints and completely sided with McCash." in place of "..."
155	10	Add "further retaliation and discrimination that I could be subjected to because the HR director and Mount Sinai medical center ignored my concerns regarding harassment, discrimination, and retaliation by white coworkers such as Jordan and McCash, and white supervisors such as Lento, Schiller, Bleiweiss, Pessin-Minsely for the explicit favorable treatment of caucasians." in place of "--"
156	15	Add ", yes." in place of "--"
157	9-10	Delete ", I believe that it had something to do with it."
157	14	Add "and my supervisors were excused completely for their targeting me because of my race, gender, and national origin."
161	4	Change "No, I --" to "Yes,"

PAGE	LINE	CORRECTION
162	2	Add “dismissive of my concerns and contradicts what she said to me at the meeting on April 5, 2011.” in place of “--”
162	13	Add “McCash and Jordan, and dismissing my concerns, which she also stated that she had regarding what had happened.”
163	22	Correct “ability” to “able”
164	10	Add “, when McCash is the one who regularly solicited other for drinking at work.” in place of “--”
168	25	Add “promoted for engaging and actively participating in discrimination and harassment against me a brown to black colored women of indian descent.” in place of “--”
168	5	Add “that Jordan was likely told to say and document things against me and actively harass me by Drs. Schiller, Bleiweiss, Lento, and Pessin-Minsely” in place of “--”
168	19	Correct “I am not sure.” to “Yes”
172	11	Add “someone sexually harasses you.” in place of “--”
174	8	Correct “I can’t recall.” to “Yes, I thought that what he said was derogatory and directed related to my gender.”
175	12	Correct “I can’t recall” to “Yes”
181	23	Add “that I had done, which included a lot of complicated cases, contrary to what has been asserted by the Melissa Pessin-Minsely, Ira Bleiweiss, and Samuel McCash.” in place of “...”
186	3	Correct “They’re” to “GME office was”
186	13	Add “in all our interaction.” before “.”
186	13	Delete “smart”

PAGE	LINE	CORRECTION
189	10	Add "she would not have been informed in December 2010 of my complaint and I don't think resident coworkers are allowed to be involved in taking disciplinary action against another resident." in place of "..."
189	13	Correct "Nyfeld" to "Najfeld"
190	6	Add "shared my exact complaints but they should have because he and Art Figur were both involved in interviewing me in January 2011."
191	6	Correct "Nyfeld" to "Najfeld"
191	10	Correct ", but..." to "told to write a derogatory evaluation of me."
192	18	Add "works for the President of the Mount Sinai Medical Center and Dean of Medical School." in place of "..."

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

LEENA VARUGHESE, M.D.,

Plaintiff,

vs. 12 Civ. 8812(CM)

MOUNT SINAI MEDICAL CENTER,
PATRICK LENTO, M.D., CARLOS
CORDON-CARDO, M.D., ADOLFO
FIRPO, M.D., IRA J. BLIWEISS,
M.D. and ABC CORP. 1-10, and
JOHN DOES 1-10,

Defendants.

-----X

June 11, 2013

10:34 a.m.

Volume II

Continued deposition of LEENA

VARUGHESE, held at the offices of Edwards
Wildman Palmer LLP, 750 Lexington Avenue, New
York, New York, pursuant to Notice, before
Thomas R. Nichols, a Registered Professional
Reporter and a Notary Public of the State of
New York.

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A P P E A R A N C E S :

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1 Varughese

2 L E E N A V A R U G H E S E , called as a
3 witness, having been duly sworn by a Notary
4 Public, was examined and testified further
5 as follows:

6 EXAMINATION BY (CONT'D.)

7 MR. McEVOY:

8 Q. So Dr. Varughese, remember you have to
9 give oral responses so the court reporter can take
10 down what is being said.

11 A. Correct.

12 Q. And as I asked you the last day, are
13 you taking any medication of any type --

14 A. No.

15 Q. Let me finish. -- that would affect
16 your ability to answer the questions?

17 A. No.

18 MR. WRONKO: Just remember, let him
19 finish his question before you give your
20 response.

21 Q. So Dr. Varughese, are you familiar
22 with the Physician Wellness Committee?

23 A. Yes.

24 Q. And what is the Physician Wellness
25 Committee?

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1 Varughese

2 A. It is a committee set up by the
3 hospital to assist physicians who may be having
4 some sort of problems, either substance abuse,
5 which is what I really thought what their purpose
6 was, to intervene in those kinds of situations.

7 Q. Let me show you a document, and it's a
8 document that you actually produced in discovery,
9 and take a look at it.

10 MR. McEVOY: Mark it as Exhibit 17.
11 (Defendants' Exhibit 17, Mount Sinai
12 Medical Center's Policies and Procedures,
13 Subject No. A4-125, marked for
14 identification, this date.)

15 A. OK.

16 Q. What is this document?

17 A. This is I believe HR or the hospital's
18 policy and procedure A4-125, and this is something
19 that Dr. Figur made me aware of because he sent
20 this document to me.

21 Q. So you got this from Dr. Figur?

22 A. Yes.

23 Q. When did you get it from Dr. Figur?

24 A. I believe it was when I was

25 interviewing with him under his, you know, role or

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Varughese

1 whatever his role was at the Physician Wellness
2 Committee back in like March or April of 2011.

3 Q. Dr. Varughese, when were you first
4 referred to the Physician Wellness Committee?

5 A. Well, according to Dr. Figur I was
6 referred to the Physician Wellness Committee in
7 December of 2010.

8 Q. And was that your understanding of
9 when you were first referred?

10 A. Yes.

11 Q. Now, in the complaint in paragraph 28,
12 and I'm not going to read the whole thing, but in
13 essence what it says is that in or around late
14 December of 2010 Dr. Pessin-Minsley had contacted
15 the PWC to report you in order to provoke the PWC
16 to take negative action against you in retaliation
17 for your complaints.

18 I will come back to that part, but how
19 did you learn that Dr. Pessin-Minsley had reported
20 you to the PWC?

21 MR. WRONKO: Form objection. You can
22 answer.

23 A. Well, I learned about it eventually in
24 like March of 2011 when Dr. Figur informed me that

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Varughese

1 she had originally reported me to PWC, but he
2 thought that it wasn't -- the issues that were
3 coming up at that time were not a concern or
4 within the realm of PWC's jurisdiction at the
5 hospital.

6 Q. So did Dr. Figur tell you who had
7 referred you to the PWC when he decided it was
8 appropriate for you to meet with him?

9 MR. WRONKO: Form objection. You can
10 answer.

11 A. Had referred him?

12 Q. Who had referred you to him. You said
13 that Dr. Minsley had tried to report you and he
14 said he didn't think it was appropriate.

15 A. Right. That was his position, but I
16 did meet with him well before the PWC, quote
17 unquote, PWC got involved, because according to
18 Dr. Figur he wears many hats in the hospital and
19 I'm not sure what hat he was wearing when I met
20 with him in January of 5, 2011.

21 Q. So when you met with Dr. Figur in
22 January of 2011 where did that meeting take place?

23 A. That meeting took place in the
24 hospital.

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Varughese

1 Q. Do you know where in the hospital?

2 A. Sure. It was in the graduate medical
3 education office.

4 Q. Was anyone else present other than yo
5 and Dr. Figur?

6 A. Paul Johnson was also present.

7 Q. And what was discussed at that
8 meeting?

9 A. Basically the circumstances, you know,
10 that -- a lot of things -- can I correct that? A
11 lot of things were discussed. Initially they
12 discussed, you know, how work is managed within
13 the department, and that went into, you know, what
14 actually took place and what my concerns were
15 and...

16 Q. So when you say what took place, what
17 are you referring to?

18 A. Well, I'm referring -- in terms of
19 what PWC, I mean, not PWC, Dr. Figur and Paul
20 Johnson wanted to know how the work flow of the
21 department, you know, went from I guess in the
22 morning to like when everyone washed up and went
23 home. So that was one aspect of what they wanted
24 to know took place.

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Varughese

1 They wanted to also know like how work
2 was divided among people and how it was, I guess,
3 done on a regular basis.

4 And then he wanted to also know about
5 the incident that I had complained about, which
6 was McCash harassing me and intimidating me.

7 Q. That's the December incident?

8 A. That's the December 8th incident,
9 right.

10 Q. What else did they ask you to talk
11 about?

12 A. They wanted to know about the
13 moonlighting and how the moonlighting worked.
14 They wanted to know more about just general, you
15 know, issues relating to moonlighting and what
16 else happened.

17 I think I mentioned, I just mentioned
18 what was going on in the department and what was
19 going on with me at that point.

20 Q. And so what did you say about what was
21 going on with you, what was going on with the
22 department?

23 A. Well, I informed him about, you know,
24 McCash basically harassing me and getting involved

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Varughese

in work that I'm managing as part of my duties and just him intimating me and regularly harassing me at work and my report of that to Dr. Lento and his lack of action on my complaints. So I believe informed Dr. Figur and Paul Johnson about those issues.

Q. Anything else that you told him at this meeting?

A. I mean, is there a specific question other than --

Q. I wasn't at the meeting. I don't know what happened there. So what I want to know is --

A. Right, so I also --

Q. Wait. Let me finish. Everything you recall them saying to you and everything you recall saying to them during that meeting.

A. Right. Well, I also informed them about what's -- Adrienne Jordan's drinking and possibly McCash also consuming alcohol at work without, you know, any concern or -- concern or paying any attention to what the rules were within the department and whether or not they were involved in patient care, and in general, just Adrienne Jordan's like -- just Adrienne Jordan

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just basically taking over moonlighting and managing it in a way where it was just clearly in her benefit. Because Dr. Figur wanted to know if -- who was actually overseeing moonlighting to ensure that the department wasn't spending an exorbitant amounts of money paying for a service that they didn't need depending on any given day.

So I frankly did not know if there was any oversight over that program because Adrienne Jordan was in charge of it.

Q. Anything else that you told them or talked about at this meeting?

A. I believe I mentioned that I thought McCash was harassing me because I was a woman and it was probably motivated by my gender.

Q. Anything else that you told them or talked about that you recall?

A. I cannot recall.

Q. When you say that Adrienne Jordan was running the moonlighting program for her benefit, what did you mean?

A. I'm not sure if I said that. Did I say that?

Q. You did.

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Varughese

A. Well, the problem was she was in charge of the moonlighting and she assigned herself to moonlighting almost every day at her convenience. It seemed like, you know, she was, you know, her and McCash, they were always assigning themselves to moonlighting duties and it seemed like a lot of us, the lot of the remaining residents, other residents in the cohort, they were not allowed to moonlight. I would send them e-mail saying I'm not allowed to moonlight, and apparently a lot of my colleagues were also sent e-mails saying that we were not allowed to moonlight.

Q. E-mails from Dr. Jordan?

A. Right.

Q. So when you say her benefit or Dr. McCash's benefit, are you referring to their financial benefit?

A. Right, it paid \$70 an hour and I think it was a maximum of three hours per day, which is a lot of money.

Q. Other than telling Dr. Figur and Mr. Johnson, this is the meeting in January 2011, did you ever complain to anybody at the hospital

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Varughese

about the way the moonlighting system worked?

A. I believe I had mentioned my concerns to -- Paul Johnson was the head of GME, and I also I believe I spoke to Dr. Barnett regarding it at some point, perhaps very briefly. Just made them aware, but....

Q. What did Dr. Barnett say about the moonlighting issue when you mentioned it to him?

A. He didn't say much, and --

Q. What did he say?

A. He didn't say much at all. I mean, Dr. Lento is the one who is overseeing it, so you, know.

Q. Did you talk to Dr. Lento about it?

A. I'm not sure if I spoke to him. But I was e-mailed by Dr. Jordan and I spoke to my colleagues about the e-mail from Dr. Jordan about not moonlighting and they said that it was, um, Dr. Lento should be e-mailing me, not Dr. Jordan. So I really don't know.

Either way it was fine with me because I just said I shouldn't moonlight anymore. It's not that big a deal.

Q. When you say that you think you

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Varughese

1 mentioned the fact that you thought that
2 Dr. McCash was treating you the way he was
3 treating you because you're a woman and because I
4 think you said a woman because of your gender,
5 which is the same thing, are you sure that you
6 mentioned that to Dr. Figur and Mr. Johnson?

7 MR. WRONKO: Form objection. You can
8 answer.

9 A. I'm pretty sure I mentioned it.

10 Q. What did you say?

11 A. I'm pretty sure that I mentioned --

12 Q. I know. I heard you. What did you
13 say? What did you say to him?

14 A. I think I said that they would not
15 treat a male resident or colleague in the same way
16 that they're treating me and there was a pattern
17 of behavior that I experienced at the hands of
18 Dr. McCash, whether it was telling me to shut up,
19 shut up in front of all my colleagues, at a
20 conference no less because he's upset, and then,
21 you know, to this incident which was also
22 physically intimidating to me and it just seems
23 that his behavior was getting more aggressive and
24 escalating from one to the next.

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Varughese

1 Q. So other than saying that you thought
2 that Dr. McCash wouldn't treat male colleagues the
3 way he treated you, did you say anything else to
4 Dr. Figur or Mr. Johnson about your belief that
5 Dr. McCash was treating you in the manner you
6 described because you're a woman.

7 A. I believe I made it very clear to them
8 that I was, you know, physically intimidated and I
9 felt afraid to be at work and to be around him.

10 Q. Did you say anything else about that
11 subject?

12 A. Well, I mean, relating to Dr. McCash,
13 I believe I did say more about his pattern of
14 behavior.

15 Q. No, I understand that, Dr. Varughese.
16 I'm not asking you about what Dr. McCash did.
17 You've told me that at some length.

18 What I'm asking you, you said at the
19 meeting with Dr. Figur and Mr. Johnson, you said
20 that you thought Dr. McCash was treating you the
21 way you described because you were a woman and I
22 asked you what you said about that, about the fact
23 that he treated you that way because you're a
24 woman, and you said because you didn't think he

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Varughese

1 would treat men the same way he treated you. I
2 understand that.

3 Now my question is not what Dr. McCash
4 did or didn't do, but did you tell Dr. Figur and
5 Mr. Johnson anything else about why you thought
6 Dr. McCash was treating you the way he was
7 treating you because you're a woman other than he
8 didn't treat men that way?

9 MR. WRONKO: Form objection. I think
10 she's answered that.

11 A. I believe I already answered that
12 question.

13 Q. Did you say anything else to them
14 other than what you've already told me about
15 Dr. McCash's treating you the way he treated you
16 because you're a woman?

17 A. Right, I explained the two incidents
18 and whatever other incidents that I thought was
19 relevant at that time to them and I'm not sure if
20 I draw a comparison between myself and my male
21 colleagues to further explain the point to them.
22 I'm not sure if I did do that at that time.

23 Q. Did Dr. Figur or Mr. Johnson tell you
24 why they wanted to meet with you?

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Varughese

1 A. Yes. They explained that it was
2 because of the complaint and there was an
3 incident.

4 Q. What complaint?

5 A. Well, I assumed it was because of my
6 complaint. I had sent a complaint into HR. And I
7 assumed that's why they wanted to meet with me.

8 Q. What did they say?

9 A. Well, that's what I assumed initially,
10 but then they mentioned that Dr. Pessin had said
11 something about insubordination, and so on and so
12 forth.

13 So then I wasn't sure why they were
14 meeting with me and what their premise for the
15 investigation was at that time.

16 Q. Did you ask them why they were meeting
17 with you?

18 A. Well, they were asking me --

19 Q. Did you ask them why they were meeting
20 with you?

21 A. Yes.

22 Q. What did they say?

23 A. They said it was just related to these
24 incidents and they were trying to investigate what

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Varughese

1 happened.

2 Q. How did the meeting end? And by how
3 did the meeting end, I mean what happened at the
4 end of the meeting? Was there some follow-up that
5 was to take place? What was supposed to happen,
6 if anything?

7 A. Right. So I met with them initially
8 for like an hour and then I had to meet with them
9 again because we couldn't complete the interview
10 at that time. So after the second meeting we
11 just, um, I think they asked me some questions and
12 it ended abruptly and....

13 Q. What happened at the second meeting?
14 Well, strike that. How long after the first
15 meeting was the second meeting?

16 A. I'm not sure now. I believe it was
17 like a week maybe, approximately.

18 Q. The same people at the second meeting,
19 you, Mr. Johnson and Dr. Figur?

20 A. Right.

21 Q. And what happened at the second
22 meeting?

23 A. Well, I -- well, they had more
24 questions to ask me, so I just answered.

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Varughese

1 Q. What questions did they ask you?

2 A. I can't recall it right now.

3 Q. Do you remember generally what the
4 topic of the second meeting was?

5 A. No, but I remember their attitude
6 towards me had changed quite significantly.

7 Q. Do you remember what the questions
8 they asked you, what the general topic was? I
9 didn't ask you about their attitude.

10 A. Well, the general topic was the
11 incidents and....

12 Q. Incidents about what?

13 A. The December 8th incident.

14 Q. When you say their attitude had
15 changed, how did you perceive their attitude to
16 have changed from the first meeting to the second
17 meeting?

18 A. They were very confrontational, the
19 second meeting.

20 Q. And in what way was Dr. Figur
21 confrontational?

22 A. Well, it was just -- well, it's just a
23 sense I got, but, I mean, you know, that's just my
24 perception. I can't....

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Varughese

1 Q. And what about Mr. Johnson, is that
2 just your perception as well?

3 A. Well, it's not just my perception.
4 It's pretty important if it's my perception.

5 Q. Leave out the word "just." Was it
6 your perception that Mr. Johnson had adopted a
7 more confrontational attitude?

8 A. No, I cannot say Mr. Johnson was
9 particularly confrontational.

10 Q. It was Dr. Figur who you perceived as
11 confrontational.

12 A. Well, I felt Dr. Figur had sort of
13 been swayed in one way in a way towards a negative
14 attitude towards me and had this -- the way he
15 was asking me questions, I just thought that he
16 had assumed that I had done something wrong even
17 though he was just conducting the investigation
18 and he should not have a real attitude or opinion
19 yet.

20 Q. Swayed by who?

21 A. Well, I would imagine the department.

22 Q. Do you know whether Dr. Figur had any
23 consultation with anybody in the department about
24 his meetings with you?

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Varughese

1 A. I believe he did.

2 Q. And what's the basis for that belief?

3 A. Well, the basis for that belief is
4 just information that I had recently gleaned.

5 Q. I don't know what that means.

6 A. From the various discovery and such.

7 It seems that the department was e-mailing him and
8 contacting him and speaking to him on the phone.
9 I assume it's -- I assume that they had time to,
10 you know, collaborate, corroborate their stories.

11 Q. So at the end of the meeting did
12 Dr. Figur or Mr. Johnson ask you to do anything?

13 A. No.

14 Q. Was there any follow-up meeting
15 scheduled?

16 A. No.

17 Q. Did you ask them to do anything?

18 A. Right. I reported to them about the
19 drinking and I think they said that they're going
20 to go up and investigate.

21 Q. Did you ask them to do anything else?
22 At the end the meeting I'm talking about.

23 A. No, I don't think I really -- I was
24 expecting them to, you know, follow up with me at

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1 Varughese
 2 some point about their findings, but that never
 3 occurred.
 4 Q. Do you know, Dr. Varughese, whether
 5 Dr. Figur or Mr. Johnson conducted an
 6 investigation into the incident involving you and
 7 Dr. McCash in December of 2010?
 8 A. I believe that was -- the line of
 9 questioning involved that incident.
 10 Q. I understand that, but do you know
 11 whether apart from the meeting that they had with
 12 you or the meetings they had with you, do you know
 13 whether Dr. Figur or Mr. Johnson did anything else
 14 to investigate the incident involving you and
 15 Dr. McCash in December of 2010?
 16 A. I'm not sure if they had interviewed
 17 other people or there were further, you know,
 18 other interviews with other people in the
 19 department.
 20 Q. Now, did there come a time when -- let
 21 me take a step back. You said that this meeting
 22 with Dr. Figur and Mr. Johnson was not in
 23 connection with a referral to the PWC, correct?
 24 A. Well, they informed -- I believe they
 25 informed me about the PWC.

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1 Varughese
 2 Q. But this wasn't a meeting that took
 3 place within the parameters of the PWC program as
 4 you understood it.
 5 A. Right. Well, Dr. Figur explicitly
 6 made a disclaimer that even though he had been
 7 referred, insubordination or whatever complaint
 8 Dr. Pessin made is not for -- it's not within the
 9 realm of PWC.
 10 Q. Did there come a time when you were
 11 referred to the PWC?
 12 A. Well, I was referred to the PWC by the
 13 department leadership, which is
 14 Dr. Pessin-Minsley. So there's no question that
 15 I, you know, there have been several times when
 16 I've been referred to the PWC, that being one of
 17 the first.
 18 Q. After that time did there come another
 19 time when you were referred to the PWC after
 20 January 2010 when you met with Dr. Figur and
 21 Mr. Johnson?
 22 A. Right, I was referred to them sometime
 23 in February of 2011.
 24 Q. Who referred you?
 25 A. I believe it was Dr. Lento.

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1 Varughese
 2 Q. And how did you learn that it was
 3 Dr. Lento that had referred you to the PWC?
 4 A. How did I learn that? Well, because
 5 they sent me an e-mail, Dr. Figur sent me an
 6 e-mail saying that I had been referred to the PWC
 7 and he would like to meet with me like on
 8 February, I believe it was 18, or I believe it was
 9 around that time.
 10 Q. Did Dr. Figur in that e-mail say that
 11 Dr. Lento had referred you?
 12 A. Well, I just -- I made that assumption
 13 because he was cc'd on that e-mail.
 14 Q. New, let me show you a document,
 15 Dr. Varughese, and I will tell you that it is a
 16 fairly long and a little difficult to follow
 17 e-mail string, but if you would look at it while
 18 we mark it as Defendants' Exhibit 18 then I will
 19 ask you some questions about it.
 20 (Defendants' Exhibit 18, e-mail string
 21 commencing with Bates No. D-1397 and ending
 22 with Bates No. D-2129, marked for
 23 identification, this date.)
 24 A. OK.
 25 Q. Have you had a chance to look at that?

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1 Varughese
 2 A. Yes. It seems to be an e-mail
 3 spanning a number of days or weeks.
 4 Q. The first part of it, which are Bates
 5 numbers D-1397 to D-1402, is an e-mail string. It
 6 starts with an e-mail from Dr. Figur to you dated
 7 Monday, February 28, 2011, and ends with an e-mail
 8 from you to Dr. Figur dated April 7, 2011.
 9 And this e-mail string is a little
 10 unusual in that the earliest e-mail is in the
 11 front, not in the back. So the earliest one is on
 12 the first page.
 13 The second part of this e-mail string
 14 is on Bates stamp numbers D-2128 to 2129, and it
 15 is an e-mail string that now goes in the usual
 16 reverse order, with the earliest one being a
 17 Monday, March 28, 2011 e-mail from Dr. Figur to
 18 you and the last one being an April 1, 2011 e-mail
 19 again from Dr. Figur to you.
 20 So, Dr. Varughese, if you look at the
 21 first page which is the one numbered 1397, that's
 22 an e-mail from Dr. Figur to you dated Monday,
 23 February 28, 2011.
 24 Do you see that?
 25 A. Right.

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Varughese

Q. And it says, "Leena, you were referred to meet with the Physicians Wellness Committee.

"Dr. Dan Hughes and I can meet with you either March 1 at 12 noon or March 3d at 10 a.m. Please email both of us which is the most convenient date and time for you.

"Pat can you free her up for an hour either time that is convenient to her schedule.

"I don't normally give the following information to prospective interviewees, but being aware of your past responses to requests, I just want to lay it on the line. Refusal to cooperate (which means meeting with us, etc.) can be grounds for immediate termination from the program and the hospital without rights of appeal.

"It has happened in the past to other physicians.

"Sorry to be SO blunt, but I don't want there to be any misunderstandings or miscommunications between us."

Did I read that correctly?

A. Right.

Q. So had Dr. Figur tried to schedule meetings with you before February 28, 2011?

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Varughese

A. Actually, no. He has not made such a, you know, effort that went to such lengths to schedule a meeting with me. This is e-mail I received from him and I was rather shocked by the tone and the attitude.

Q. I didn't ask whether he went to great lengths or made serious efforts.

Prior to this e-mail you got on February 28th of 2011 had Dr. Figur or Dr. Hughes attempted to schedule a meeting with you?

A. I don't recall. I believe they have not. I mean, I believe they have not. I don't want to say I don't recall, but to the best of my knowledge, they have not.

Q. So when Dr. Figur says being aware of your past responses to requests, do you have any idea what he's referring to?

A. I had no idea what he was referring to.

Q. The next e-mail is from Dr. Lento to you and he says that he let Dr. Figur know that you were at an affiliate and we are short resident coverage for this week given that so many are out for the USCAP. He said that it can wait until

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Varughese

after he returns on a March 20th and asked me to let you know.

Did you receive that e-mail from Dr. Lento?

A. Yes.

Q. Then the next e-mail is March 23rd of 2011 from Dr. Figur to you and it says: "Leena, I heard from Dr. Lento that you are back at Mount Sinai. Dan Hughes and I could either meet with you this Friday 3/25 at 11 a.m. or Monday 3/28 at 11 a.m. in my office. Pick which is most convenient for you and the department."

Then he tells you where his office location is. Did you receive that e-mail?

A. Yes.

Q. And then the next e-mail which is on March 24th is from Dr. Lento to you saying: "Please contact Dr. Figur right away regarding his e-mail below."

Do you see that?

A. Right. That was the 24th, right.

Q. And then the next e-mail in this string is dated March 28th from Dr. Figur to you and it says: "Leena, it was nice bumping into you

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in the subway. I need about 15 minutes of our time to discuss Dan's and my recommendations. Give me some dates and times you are free this week."

Do you see that?

A. Yes.

Q. As of March 28th, Dr. Varughese, had you met with Dr. Figur and Dr. Hughes?

A. Yes, I believe I met with them. Yes, I did.

Q. When did you meet with them?

A. I think it was March 25th.

Q. Where did that meeting take place?

A. Or even March 23rd. No, March 24th or 25th.

Q. Where did that meeting take place?

A. It took place in Dr. Figur's office.

Q. And was Dr. Hughes present?

A. Yes.

Q. Anybody else other than the three of you?

A. Yes.

Q. And what was discussed at that meeting?

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Varughese

1
2 A. Just that I had been referred to them
3 at some point and the reasons for referral and,
4 you know, they wanted to know what my thoughts
5 were.

6 Q. What were you told were the reasons
7 for the referral?

8 A. They said it was a variety of issues
9 over the -- that, um, they said it was a variety
10 of issues.

11 Q. What were the issues?

12 A. I can't, I don't remember right now,
13 but it seemed really just random to me because it
14 seemed sort of that they were making the
15 supposition that or Dr. Figur was making the
16 supposition that all the matters that they
17 referred to were absolutely true. They were
18 assuming that I had done something wrong over the
19 past like year or so, and, I mean, they were
20 essentially confronting me with these issues.

21 Q. You don't remember what the issues
22 were.

23 A. I mean, it just sort of was -- it was
24 a range of --

25 Q. I understand that. All I'm asking is,
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Varughese

1 as you sit here today, Dr. Varughese, do you
2 recall any of the issues that they discussed with
3 you as being the reasons that you had been
4 referred to the PWC?

5 A. Right, well, they referred, um, they
6 said that, you know, I was referred here because
7 of the incident with McCash. Then they said that
8 they, and Dr. Pessin felt like I was being
9 insubordinate and then they said something about,
10 Oh, like, several years ago Dr. Schiller said
11 something, and -- it was just like really strange
12 in my opinion.

13 Q. I didn't ask you if you thought it was
14 strange. I asked you what you recall them saying
15 as to the reasons you were referred to the PWC.

16 A. Right.

17 Q. So you told me whatever you just told
18 me. Are there any other reasons you remember
19 discussing or telling you were the reasons you had
20 been referred to the PWC?

21 A. Well, those were the reasons and then
22 Dr. Figur said that since those were issues long
23 gone, even though he had been informed of them, he
24 is not really at liberty to act on them. So he

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Varughese

1 essentially said that his real concern was
2 Dr. Pessin's complaint at this point and the
3 McCash incident and what had followed.

4 Q. And the Dr. Pessin complaint is the
5 one about you being insubordinate?

6 A. Right.

7 Q. I thought you told me a few minutes
8 ago that when you met with Dr. Figur and
9 Mr. Johnson in January Dr. Figur told you that
10 that was not an issue that was appropriate for the
11 PWC.

12 A. Right.

13 MR. WRONKO: Form objection.

14 A. But the he revisited that issue at
15 this meeting.

16 Q. And how long did this meeting last in
17 March 24th or 25th?

18 A. Like approximately an hour.

19 Q. What did you say during this meeting?

20 A. Well, I just said that, you know, what
21 had happened was extremely troubling for me and I
22 find that, you know, this meeting is rather, I
23 felt like the meeting was not really trying to
24 help me, because it was making me revisit issues

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Varughese

1 that were really traumatic for me and having to
2 defend myself or explain the situation, explain
3 the circumstances under which the McCash incident
4 took place and the actions that had been taken
5 against me since then, and I had to correct him on
6 his opinion about me about various things that he
7 was informed about.

8 Q. Whose opinion?

9 A. Dr. Figur.

10 Q. What opinion did Dr. Figur express
11 about you?

12 A. Well, he was saying, Oh, I heard all
13 these things. I heard Dr. Schiller said this and
14 I heard that you had done X, Y and Z, which now
15 I'm not sure what they were right now, but, I
16 mean, I think --

17 Q. Dr. Varughese, how do you come to the
18 conclusion that Dr. Figur's reporting to you or
19 telling you what he heard about you is expressing
20 his personal opinion about you?

21 A. Well, he is the head of the Physician
22 Wellness Committee and he is at liberty to take
23 recommended action or not recommend something.
24 And I felt that he was inclined to recommend that

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Varughese

I do something as to just say, Well, we reviewed the issues with Leena and we don't see there being any sort of problem here.

Q. So did you think that you needed to be referred to the Physician Wellness Committee?

A. No, not at all.

Q. How did this meeting on March 24th and March 25th end?

A. Well, it was one meeting either the 24th or the 25th.

Q. I understand.

A. And it just ended with them letting me know that they're going to make some recommendations to me, and I believe they said that they wanted me to meet with Dr. Fersch, and I requested that if they do have recommendations or opinions about my mental health I would appreciate if they wrote it down. I wanted a report from them because they were interviewing me as part of the Physician Wellness Committee.

Q. I take it that the meeting ended with Dr. Figur and Dr. Hughes telling you they would get back to you with recommendations?

A. Right.

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Q. Or they would make recommendations?

A. Right.

Q. And that brings us back to this e-mail of March 28th where Dr. Figur is asking you to meet with him and Dr. Hughes to discuss the recommendations, correct?

A. Right.

Q. And then the next e-mail, which is that same date, that evening, is from you to Dr. Figur that says, among other things, "I'll be able to meet on Thursday at 11:30 or 4 p.m. or Friday at 11:30 or 4 p.m."

A. Right.

Q. Then the next e-mail is from Dr. Figur dated March 29th and it says among other things, "I can do 4 p.m. Thursday in my office."

A. Right.

Q. Then the next e-mail is from Dr. Figur, which is April 1st at 10 a.m., and it says: "Leena, it's 9:52 a.m. and you haven't arrived. I assumed that since you didn't respond that you could not make it this morning to my request for our 9:40 meeting that you would be here. So I waited until 9:55 before leaving for

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my other duties. Unfortunately, whether you recognize it or not, this is unprofessional behavior on your part as well as a lack of courtesy."

Do you see that e-mail? Yes?

A. Right.

Q. Were you scheduled to meet with Dr. Figur on April 1st at 9:40 a.m.?

A. I believe it was 4 p.m. I'm not sure now.

Q. In any event, was there a meeting that you were scheduled to attend with Dr. Figur that you didn't go to?

A. Yeah, I was -- I think I was out sick, so I couldn't go in to the meeting.

Q. And the next e-mail is from you to Dr. Figur at 12:39 and it says, "I am out sick today as well due to a cold/flew, which I have had since Tuesday."

A. Right.

Q. "It was terrible on Wednesday during the day. I was out sick Thursday and I am out sick again today. I am sorry to have inconvenienced you in any way. Perhaps you can

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e-mail me what what you would like to say to me. Also, my professionalism have been exemplary throughout our meetings over the past three months. I thank you in advance for your patience." And then, "Please feel free to call me on my cell."

A. If there's an urgent issue.

Q. If there's an urgent issue, correct. And you say: "Also, my professionalism have been exemplary throughout our meetings over the past three months."

You mentioned the two meetings you had with Dr. Figur and Mr. Johnson and then the one meeting you had with Dr. Figur and Dr. Hughes.

A. Right.

Q. Any other meetings that you had with Dr. Figur over the past three months?

A. No, those were it.

Q. Why didn't you e-mail Dr. Figur on Tuesday or Wednesday or Thursday morning to tell him you wouldn't make the meeting?

A. Because I wasn't expecting to be out sick.

Q. And then there's an e-mail from

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Varughese

1
2 Dr. Figur to you on April 5 saying, "Leena, I hope
3 you are feeling better. I have scheduled you to
4 meet with Dan and me at 11 a.m. this Friday, April
5 8th in my office. I have copied Dr. Lento so that
6 he can arrange for you to be free at that time
7 since we have no other times available and need to
8 complete our process this week."

9 And then Pat Lento sends an e-mail
10 also dated April 5th basically saying he's going
11 to free you up to go to that meeting.

12 A. Right. He informed my rotation
13 supervisor.

14 Q. Did you communicate with Dr. Figur at
15 all as to whether you would or wouldn't attend the
16 meeting on April 8th?

17 A. On April 8th? No. I just told him I
18 will be there I think.

19 Q. I'm sorry?

20 A. I told Dr. Figur that I will be there
21 for the meeting.

22 Q. When you did tell him that?

23 A. Well, April 7th. I believe he
24 e-mailed me at 2:53 and I e-mailed him back at
25 3:07.

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2 Q. Between the time he e-mailed you on
3 April 5th to say that he wanted to meet with you
4 at 11 a.m. this Friday April 8th and then when he
5 e-mailed you two days later on April 7th did you
6 communicate with Dr. Figur to let him know you
7 were going to be at the meeting?

8 A. Right, I believe I had e-mailed him at
9 that point.

10 Q. Dr. Figur says in this e-mail, "I
11 haven't heard from you since my last e-mail and
12 phone call."

13 A. Oh, so I spoke to him then.

14 Q. "Just to make you aware, the
15 policy" -- well, in that phone call did you
16 remember talking to Dr. Figur on the phone?

17 A. Of course.

18 Q. So he didn't just leave you a message?

19 A. No, I don't think he left a message.
20 I don't have any message from Dr. Figur.

21 Q. I'm sorry?

22 A. He has not left me any messages, voice
23 mails.

24 Q. Ever.

25 A. No.

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2 Q. "Just to make you aware, the policy
3 approved by the medical board in regard to the
4 Physicians Wellness Committee clearly states that
5 the failure to cooperate can lead to discipline
6 including termination from Mount Sinai. We have
7 terminated even senior attending physicians from
8 the Medical staff of the hospital for failure to
9 comply."

10 "This is an upfront notice about
11 failure to comply so that we are clearly
12 transparent in educating you of the process.

13 "This is not a threat. It is still
14 your choice to meet with us or not.

15 "To find the policy, log into the
16 Hospital Home Page, then Manuals and Documents,
17 then Medical Staff Services, then Physicians
18 Wellness. Read the entire policy. You will find
19 failure to cooperate in paragraph D Disciplinary
20 Action part of the policy."

21 Did you receive that e-mail from
22 Dr. Figur?

23 A. Yes, I did.

24 Q. Were you surprised when you got that
25 e-mail?

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1
2 A. Well, I just already knew he had a
3 negative attitude towards me at this point and
4 just repeated threats. I wasn't -- I was troubled
5 by the repeated threats that he felt he needed to
6 make, but was I surprised?

7 Q. Yes. Well --

8 A. No.

9 Q. If, Dr. Varughese, you had --

10 A. That seemed to be the general attitude
11 of the hospital leadership and --

12 Q. If you had --

13 MR. WRONKO: Let's try not to speak
14 over one another.

15 MR. McEVOY: I agree with you.

16 Q. If you had confirmed with Dr. Figur
17 that you were going to meet with him on April 8th,
18 which is what you just told me, right? Then did
19 you ask Dr. Figur why he would send you an e-mail
20 that suggests that he hasn't heard from you?

21 A. No, I simply told him, in my e-mail I
22 just simply said I am aware of the meeting and
23 I'll be there tomorrow as requested.

24 Q. And you sent that e-mail after you got
25 the e-mail that I just read.

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A. Right, just to appease him because this is like an extremely threatening e-mail from one of the hospital's leaders. I didn't know what else to do at this point.

Q. The only other e-mail, Dr. Varughese, just so the string is complete, if you turn to the next page, 2128, after you sent Dr. Figur this e-mail that said you were out sick, he sent you an e-mail that same day. It's at the top of the page dated April 1st.

It says, "Leena, email me when you have recovered and returned to work. We will set up a date and time to meet in person. Email or phone is not the means for our next conversation. I wish you a speedy recovery."

Do you see that?

A. Right.

Q. So did you meet with Dr. Figur on April 8th?

A. Yes, I did.

Q. Where did that meeting take place?

A. In Dr. Figur's office.

Q. Was anyone else present?

A. Dr. Hughes.

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Q. And what happened at that meeting?

A. They just informed me that I had to meet with Dr. Fersch and take a drug test, urine toxicology screen at that time itself. And they also said like even if -- they said things are not going to go my way even if I didn't do anything.

Q. I don't know what that means.

A. I don't know. It seemed like --

Q. So who said --

A. -- more threats.

MR. WRONKO: Let her finish. Did you finish your answer?

THE WITNESS: Well, Mr. McEvoy is intent on interrupting me.

MR. WRONKO: No, finish your response.

Q. No, I am not intent on interrupting you.

MR. WRONKO: Don't argue with the witness.

MR. McEVROY: I am not arguing with her. I am clarifying a point because she seems to think I'm intent on interrupting her.

MR. WRONKO: Don't argue with the
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witness.

Did you finish your response?

A. Right, it was Dr. Hughes.

Q. What did Dr. -- I am sorry, did you finish?

A. No.

Q. Finish.

A. So Dr. Daniel Hughes, his impression was that the program -- the pathology department had a lot of issues. The program was in some sort of trouble, I mean, the details of which I'm not completely, you know, privy to.

And he felt that even though that's the case and I may be correct about what's going on, it's still not, things are not going to go my way. It just seemed like there was no -- they were not interested in being fair. That's what I gathered from that meeting, and then the urine toxicology screen, which there was no reason to suspect me of being on any sort of drugs or -- that's besides the point, but there is no, you know, it seemed like if I was going to be tested for drugs. Then I would imagine my colleagues should be as well, especially ones that were

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drinking at work or behaving erratically. There should be an even way of treating people, not just I get the, you know, the brunt of all the negative actions while McCash does not suffer any consequences at all.

Q. Well, now I am going to interrupt you, Dr. Varughese, because you kind of strayed off the question.

Did Dr. Hughes tell you that, did he use the exact words "things are not going to go your way"?

A. No, the gist was things are not going to work out or something along those lines. But that was the gist. Because he made the comparison to the program and he made it very clear that was his opinion.

Q. And that's my question. What did he say that made it very clear to you that things were not going to go your way? Not the gist, not your impression.

A. Right, because he --

Q. Let me finish. What did he say?

A. Well, he said that the program had all these issues and, you know, they used to be the

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1 Varughese
2 problem and suddenly you're the problem. Even
3 though -- he seemed a little flabbergasted given
4 the circumstances, he said, even though there's
5 all this stuff going on, somehow you've become the
6 problem, even though you're not the problem. And
7 he is, Well, I feel like things are not going to
8 always would be out the way you want.

9 And I was ask just surprised because
10 the whole role of PWC is to investigate if there's
11 special physician impairment, not to tell me
12 things are not going to go my way or things are
13 not going to work out for me. That's further
14 threats from the hospital leadership about like
15 just more reaction and being fired and what not,
16 that I've been experiencing since like December
17 after the incident occurred with McCash.

18 Q. Did Dr. Hughes say anything else to
19 you that led you to believe that things were not
20 going to go your way other than what you just told
21 me?

22 A. Well, I wanted to meet with, you know,
23 a third-party psychiatrist.

24 Q. I'm going to interrupt you. Did
25 Dr. Hughes say anything else to you other than

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1 Varughese
2 what you just told me that led you to the
3 conclusion or to believe that things were not
4 going to work out for you?

5 A. Right, I'm trying to explain the
6 premise for my conclusion before I say my --

7 Q. I don't want to know the premise for
8 your conclusion. I want to know what Dr. Hughes
9 said or didn't say. That's the question. You
10 told me he said --

11 A. Right, he said that I have to meet
12 with Dr. Fersch. A third-party psychiatrist
13 option was not offered to me for a psych
14 evaluation. That relates to my employability at
15 Mount Sinai Medical Center and I felt that also,
16 you know, that decision also made me feel that,
17 um, that was another sign that things may not
18 be -- may not go my way because I would prefer to
19 have a third-party neutral psychiatrist do a psych
20 eval.

21 Q. Anything else that Dr. Hughes said
22 that led you to that conclusion?

23 A. That's all really. Those two.

24 Q. Did Dr. Figur say anything that you
25 thought indicated that he thought that things

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1 Varughese

2 weren't going to go your way?

3 A. Right, well, I talked to him as you
4 were walking to the employee health office or
5 employee health center and I asked him like, what
6 has been done about McCash? Like has any action
7 been taken against McCash? And he told me none.

8 Q. Anything that else that Dr. Figur said
9 or did that led to you the conclusion that things
10 weren't going to go your way?

11 A. Well, that pretty much. And then his,
12 eventually, I mean, he didn't give me like this
13 list of what he thought was wrong me. But
14 eventually he did provide me with a list of what
15 he thought was wrong with me or what his opinion
16 was.

17 And yeah, that also made me feel like
18 things are not going to go my way because it's
19 outlandish and defamatory and outright slander and
20 libel against my professional reputation and my
21 future and my career.

22 Q. When you say that Dr. Figur gave you
23 some kind of a document that listed his concerns
24 about you, let me show you a document, which again
25 is one that you produced, and ask you to take a

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1 Varughese

2 look at it.

3 MR. McEVOY: And while you're doing
4 that, we'll mark is as Defendants' 19.

5 (Defendants' Exhibit 19, letter dated
6 April 11, 2011 to Leena Varughese from
7 Dr. Arthur Figur, marked for identification,
8 this date.)

9 Q. Have you had a chance to look at that?

10 A. Yes.

11 Q. Is that the document we just referred
12 to?

13 A. Yes.

14 Q. How did you get this document?

15 A. Dr. Figur submitted it to his
16 secretary and forward it to me.

17 Q. So you got it directly or indirectly
18 from Dr. Figur?

19 A. Right.

20 Q. After you got this document did you
21 talk to Dr. Figur about it?

22 A. I did speak to him at one point on the
23 phone.

24 Q. And when was that?

25 A. That was sometime in May.

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Q. When you spoke to Dr. Figur in May was it about this document or was it about something else?

A. It was about, you know, his reasons for referring me to Dr. Fersch, which I believe these were the reasons that he referred me to Dr. Fersch.

Q. Was this a conversation by phone?

A. Right.

Q. What did you say to Dr. Figur, what did he say to you during that telephone conversation in May?

A. At that time I had also discussed with him I was interested in rescheduling my meeting or my appointment with Dr. Fersch because I was on a busy service at work and also because my, you know, I was having some family issues with my grandfather just having passed away, and so I spoke to him just to inform him about the situation and, you know, and I believe I briefly discussed this with him.

Q. What did you say about it?

A. I just told him I -- I -- I mean, I disagreed with him, but I -- that's what I told

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him.

Q. What did he say?

A. He didn't say much. He just said, Meet with Dr. Fersch. We're trying to help you.

Q. When was your meeting scheduled with Dr. Fersch?

A. Sometime in May, like May 2nd or 12th or something.

Q. I will tell you it was May 12th. But did you cancel your meeting with Dr. Fersch --

A. Right.

Q. Let me finish. -- prior to the time it was scheduled?

A. Um, let me see. Well, after this I was on vacation for like two weeks.

Q. After what?

A. After meeting with the Physician Wellness Committee. I believe Dr. Fersch e-mailed me at some point and I couldn't meet with her because I was on vacation and she was also on vacation at some point. So the only date that really worked was sometime in May.

And so we met and -- we were supposed to meet, but I wanted to cancel, so I cancelled.

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I e-mailed her to cancel the meeting, but she responded to Dr. Fersch, I mean, I'm sorry, Dr. Figur and complained that I was cancelling the meeting.

So then Dr. Figur called me in, insisted that I meet with Dr. Fersch.

Q. Did you meet with her on May 12th or whatever date?

A. Right, I met with her May 12th.

Q. And did Dr. Fersch to your knowledge prepare a report of your meeting?

A. She said she would prepare a meeting, I mean, a report of the meeting or the report of her impression, and she would provide it to me, but she never did.

Q. You've never seen it.

A. Right. She refused to provide it. She said it was some sort of confidentiality, even though I'm the person who was being interviewed. It doesn't make any sense. It seems like a HIPAA violation as far as I'm concerned.

Q. But you have never seen it.

A. No.

Q. During the meeting with Dr. Fersch
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what was discussed?

A. She asked me just general intake questions as any psychiatrist would do. And I discussed, I answered her questions.

Q. And during the session with Dr. Fersch did she express any opinion to you one way or the other about what she thought about the state of your mental health?

A. Not really, but I felt that she was asking me leading questions.

Q. In what way was she asking you leading questions?

A. She was implying that I should, you know. Well, like I just remember her being not very friendly.

Q. So did you think Dr. Fersch had a negative attitude towards you?

A. Yes.

Q. Did you think she had a negative opinion of you?

A. Well, I believe she came there with the expectation that she's going to, you know, be able to write something negative or say something negative to substantiate the hospital's referral.

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Varughese

Q. What's the basis for you saying she came to this meeting with an expectation that she was going to be able to write something negative about you?

A. Well, I felt that the hospital did not really, um, it did not have a conflict of interest. It would have allowed me to refer myself to third parties, like psychiatrists, and provide a report for me rather than have this all be within the hospital.

Q. So is the basis for your belief that she was expecting to write anything negative about you the fact that you were referred to a psychiatrist within Mount Sinai?

A. Well, I felt that I was not given the choice or I wasn't able to make a decision regarding -- first I felt that the Physician Wellness Committee was retaliatory.

This is, you know, it's untrue, and so given that premise and, you know, their referral to the in-house psychiatrist I felt that was retaliatory, and also given Dr. Charney and Dr. Davis, both leaders of the hospital, the institutional psychiatrists, I was greatly

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concerned.

Q. I understand, Dr. Varughese, that you don't agree with the contents of the April 11th document from Dr. Figur. And whether those contents are true or not --

A. Well --

Q. No, no.

MR. WRONKO: Hold on. Let him ask you a question.

Q. Why do you say that you believe it was retaliatory?

A. Because these actions were not taken against Samuel McCash or people who are known to have problems at work, other people who are known to have problems at work.

Q. Other than Dr. McCash what other people do you know of that have problems at work?

A. Well, for instance there have been other residents, other coworkers who have gone into verbal outbursts against each other at work and they were never referred to Physician Wellness Committee.

Q. Who?

A. Paul Azar and Michael McClausovitch.

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Varughese

Q. Anybody else?

A. Well, in terms of my experience with the PA, Rob the PA, pathology assistant, he is not a medical doctor, but he is also an employee who works there and he was not referred to the employee assistance program or the Physician Wellness Committee.

Q. Anybody else?

A. Well, McCash, once again, he was not referred.

Q. You mentioned him. OK. So you said that Dr. Fersch had a negative attitude towards you. And in what way did Dr. Fersch exhibit a negative attitude against you?

A. She was very condescending and I felt like her line of questioning was sort of directed at -- they were leading questions.

Q. Leading in what way?

A. Well, she wasn't really interested in hearing my point, you know, my perspective and my concerns about my emotional well-being since what had occurred. She was more interested in, you know, directing me in a different direction during, you know, psychiatric evaluation and I

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felt, well, if you're really interested in my well-being as an employee here, you should be concerned about how I feel.

Q. Do you know whether Dr. Figur or Dr. Hughes or anybody else spoke to Dr. Fersch before you saw her other than to tell her that you were being referred to see her?

A. Do I have any evidence of that? No. But do I believe that? Yes.

Q. You also said that you were asked to take a toxicology screen?

A. Right.

Q. And did you do that?

A. Right, yes.

Q. And it came back negative I take it?

A. Of course it came back negative. I don't abuse drugs.

Q. Now, Dr. Varughese, to your knowledge did any of your coresidents know that you had been referred to the PWC?

A. I believe yes.

Q. Who knew that you had been referred to the PWC?

A. I believe Dr. McCash, Samuel McCash

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1 Varughese
2 and Adrienne Jordan, they knew.
3 Q. How do you know that Dr. McCash knew
4 that you were being referred to the PWC?
5 A. How did I know?
6 Q. Yes.
7 A. I'm making an assumption, because
8 Dr. Lento I believe confides or speaks to them on
9 a regular basis and Adrienne Jordan and Samuel
10 McCash have a direct line to Dr. Lento.
11 Q. Any other basis for your belief that
12 Dr. Jordan and Dr. McCash knew that you had been
13 referred to the PWC?
14 A. Well, I don't have any concrete
15 evidence, so I can't really guess or make comment
16 on.
17 Q. So Dr. Varughese, do you know of any
18 other physician other than you that's been
19 referred to the PWC?
20 A. No.
21 Q. I take it that's because that's the
22 sort of information that you wouldn't normally be
23 privy to.
24 MR. WRONKO: Form objection.
25 A. Right. I believe like coworker

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1 Varughese
2 referrals to Physician Wellness Committee and such
3 should be kept confidential no matter what. Even
4 if there's a chief residence it should be kept
5 confidential from them as well.
6 Q. Do you know whether every physician
7 who is referred to the PWC is asked to take a
8 toxicology screen?
9 A. I believe referral to the PWC does not
10 automatically ensure toxicology screen.
11 Q. What's the basis for that belief?
12 A. I believe toxicology screen is done at
13 the discretion of Dr. Figur or Dr. Hughes.
14 Q. And do you know what criteria are used
15 by Dr. Figur or Dr. Hughes to determine whether a
16 physician referred to the PWC should undergo a
17 toxicology screen?
18 A. No, they never explained their
19 criteria.
20 Q. And similarly, do you know whether
21 every physician who's referred to the PWC is asked
22 to undergo a psychiatric evaluation?
23 A. I believe that would also be left to
24 the discretion of Dr. Figur and Dr. Hughes.
25 Q. Assuming that belief is correct, do

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1 Varughese
2 you know what criteria they used to make that
3 determination?
4 A. No, they did not explain their
5 rationale.
6 MR. McEVOY: Take a five-minute break.
7 (A recess was taken from 11:41 a.m. to
8 11:50 a.m.)
9 BY MR. McEVOY:
10 Q. Dr. Varughese, before you met with
11 Dr. Figur in January of 2011 had you ever met him
12 before?
13 A. No.
14 Q. And before you met with Dr. Hughes had
15 you ever met with him before?
16 A. No.
17 Q. Had you ever met Paul Johnson before?
18 A. Yes.
19 Q. Was that in his capacity as the
20 director of graduate medical education?
21 A. No.
22 Q. How did you meet Mr. Johnson?
23 A. He used to work with graduate medical
24 education. I believe he was made director at some
25 point in March or April of 2011.

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1 Varughese
2 Q. You met him before he became the
3 director.
4 A. Right.
5 Q. Now, Dr. Varughese, were you placed on
6 academic advisement in December of 2010?
7 A. Yes.
8 Q. I'm showing you a document.
9 MR. McEVOY: We'll mark this as
10 Exhibit 20.
11 (Defendants' Exhibit 20, notice of
12 academic advisement dated December 21, 2010,
13 to Leena Varughese from Patrick Lento,
14 marked for identification, this date.)
15 Q. Have you had a chance to look at that,
16 Dr. Varughese?
17 A. Yes.
18 Q. Is that the notice of academic
19 advisement that you received in December of 2010?
20 A. Yes.
21 Q. And it's dated December 21, 2010?
22 A. Correct.
23 Q. Is that when you received it?
24 A. Yes.
25 Q. How did you get it?

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1 Varughese
 2 A. I met with Dr. Lento and
 3 Pessin-Minsley.
 4 Q. And where did that meeting take place?
 5 A. It took place in Dr. Pessin's office.
 6 Q. And what did Dr. Pessin say at that
 7 meeting about the academic advisement?
 8 A. She said that this is to help me and,
 9 you know, that's what she said.
 10 Q. What did Dr. Lento say about the
 11 academic advisement at this meeting?
 12 A. He said that -- what did he say about
 13 it? Well, they just informed me that I was on
 14 academic advisement. I contested it right away.
 15 I said, well, I disagree. This is not what
 16 happened. And they said, That's not true and I'm
 17 on academic advisement.
 18 Q. Did they give you the academic
 19 advisement at this meeting?
 20 A. Yes.
 21 Q. Did you read it when they gave it to
 22 you?
 23 A. Yes.
 24 Q. And you said that you "contested" it,
 25 I think was your word. What did you say?

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1 Varughese
 2 A. Well, I said this does not address my
 3 concerns.
 4 Q. What else did you say?
 5 A. I said, well, you know, I was
 6 intimidated and physically threatened by Samuel
 7 McCash. What actions are being taken against him?
 8 I felt like some action should be taken against
 9 him, and I said that this is not what happened
 10 essentially, the summary of events. It's not
 11 really what, I mean, this is really not true.
 12 And, you know, I asked what the patient care
 13 related lapse was. So I had several questions
 14 regarding this document and which I discussed with
 15 both Lento and Pessin.
 16 Q. With regard to the patient care
 17 related lapse did Dr. Pessin or Dr. Lento tell you
 18 what that was?
 19 A. They sort of -- I believe like ever
 20 since December 8th, even December 8th, they have
 21 been toying with the idea of patient care related
 22 lapse in some way and I believe it was really to
 23 pin some sort of blame on me that would, you know,
 24 lead directly to patient care, even though there
 25 wasn't anything.

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1 Varughese
 2 Q. Did they tell you what they thought it
 3 was?
 4 A. Right, so -- which is where I'm going
 5 with this.
 6 Q. OK.
 7 A. Initially it was, you know, they
 8 thought it was, has to do with some breast
 9 specimens and then they thought it had to do with
 10 some pelvic specimens and GI specimens. Frankly
 11 they were not at all clear about what they really
 12 thought was the patient care related lapse.
 13 Q. Did Dr. Pessin or Dr. Lento tell you
 14 at this meeting that the patient care related
 15 lapse was that the day after the incident with
 16 Dr. McCash they found a specimen you were supposed
 17 to gross under your table unlabeled and
 18 unsubmitted?
 19 MR. WRONKO: Form objection. You can
 20 answer.
 21 A. That's simply not true.
 22 Q. Did they tell you that?
 23 A. No.
 24 Q. Did anybody ever tell you that?
 25 A. No. I never got an e-mail about it

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1 Varughese
 2 or, you know. I mean, it seems like a very
 3 relevant issue and it was not addressed with me.
 4 Q. I understand.
 5 A. Which is surprising.
 6 Q. You say you discussed with Dr. Lento
 7 and Dr. Pessin the incident and the events
 8 surrounding the incident with Dr. McCash as sort
 9 of summarized here in this summary of events and
 10 you said that you disagreed with them.
 11 What was that discussion? What did
 12 you say about those events, what did Dr. Lento and
 13 Dr. Pessin say about the events at this meeting on
 14 December 21, 2010?
 15 A. They just said, you know, whatever I
 16 had brought up to them it never occurred. There
 17 was no such incident. It was just outrageous.
 18 Their accusations were outrageous.
 19 Q. I asked you --
 20 A. I had no idea where they were coming
 21 up with this.
 22 Q. Dr. Varughese, what I asked you was
 23 not whether you thought it was outrageous or not.
 24 I asked you what you said to them and what they
 25 said to you.

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1 Varughese

2 A. So that I told them, well, this is
3 what happened. That did not happen, they said.

4 Well, McCash harassed me and
5 physically intimidated me or threatened me. He
6 had a pattern of behavior that needs to be
7 addressed.

8 And they said, Well, that never
9 happened. We do not corroborate it.

10 That's what they said.

11 Q. The notice of academic advisement
12 contains a section called "Plan of action,"
13 correct?

14 A. Correct.

15 Q. And the plan of action has four
16 points.

17 A. Right.

18 Q. And the first one says, "Meeting with
19 the Program Director or, as needed, interim
20 chair/chair or others in authority within the
21 Department of Pathology every 3 to 4 weeks for
22 continued assessment and advisement."

23 Right? That's what it says?

24 A. It does say that, yes.

25 Q. After you were placed on academic
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1 Varughese

2 advisement did you meet with Dr. Lento every three
3 to four weeks?

4 A. Yes, I did.

5 Q. Where did those meetings take place?

6 A. Well, I was, you know, I met with him.
7 I was on autopsy service with him for a month,
8 plus -- I met with him for that. I had several
9 cases with him, which he needed, to sign out over
10 the following months. So I met with him to sign
11 out those cases.

12 Q. What did you understand meeting with
13 the program director every three to four weeks for
14 continued assessment and advisement to mean? What
15 did you understand that obligated you to do?

16 MR. WRONKO: Form objection. You can
17 answer.

18 A. Well, I -- it was a very generalized
19 statement and I just -- I assumed it just meant
20 that I had to meet with him and he would tell me
21 whatever he thought.

22 Q. So was it your understanding that you
23 were supposed to actually go to Dr. Lento's office
24 every three to four weeks and sit down and discuss
25 your progress under the advisement or did you

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1 Varughese

2 understand as you just described when you kind of
3 had occasion to chat with him about other -- or
4 talk to him about other things you were working on
5 that that satisfied the requirement?

6 MR. WRONKO: Form objection. You can
7 answer.

8 A. This seems like a document that he
9 wrote up or the legal department wrote up and it
10 says this is what I'm supposed to do. It's his
11 prerogative to ensure that I meet with him. And
12 if he wants to meet with me for an hour and
13 discuss professionalism, I'm open to that.

14 Did he do that? I mean, I met with
15 him and I thought that was adequate.

16 Q. So my question is, and where did you
17 meet with him every three to four weeks?

18 Let's do it this way. You got this on
19 December 21, 2010, correct?

20 A. Right.

21 Q. When was the first time you met with
22 Dr. Lento pursuant to the requirement of the first
23 bullet point?

24 A. Well, I met with him. I was working
25 with him for that time period.

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1 Varughese

2 Q. So it was your understanding that
3 meeting with him while you were working with him
4 during that time period satisfied that
5 requirement.

6 MR. WRONKO: Form objection. You can
7 answer.

8 A. Well, I'm not sure how to answer that
9 question frankly.

10 Q. Well, Dr. Varughese, you understood
11 when you read this -- Mr. Wronko doesn't have the
12 answers.

13 Dr. Varughese, you got this and it
14 said you have to meet with the program director
15 every three to four weeks, right? That's what it
16 says?

17 A. It says it's a following plan, it's as
18 needed.

19 Q. It says "Meeting with the Program
20 Director" --

21 A. As needed.

22 Q. -- "or, as needed, interim chair..."
23 So I don't want to parse this.

24 A. Well, I'm going to parse this. It
25 says as needed and I met with the program

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1 Varughese
2 director. I met with him several times, we
3 discussed professionalism and he had informed me
4 that I'm professional.

5 In fact, on January 10th, 2011, I met
6 with him and Freda and he said, Oh, I'm very
7 impressed with your progress and you're so
8 professional and everything is wonderful here.

9 Q. So you met with Dr. Lento on January
10 10th to discuss professionalism.

11 A. Not exactly. I met with Dr. Lento on
12 January 10 because I contested the notice of
13 academic advisement and the summary of events as
14 it was described did not explain my point of view.
15 I met and they met with me to say that I was,
16 despite my concerns about this document, I was
17 still on academic advisement.

18 Q. Dr. Varughese, can you contest an
19 academic advisement?

20 A. Frankly any disciplinary action that's
21 taken against a professional can be contested,
22 especially within the, you know, medical
23 profession.

24 Q. Is it your understanding that this is
25 a disciplinary action?

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1 Varughese

2 A. This is a variation of a disciplinary
3 action.

4 Q. Is it a disciplinary action?

5 MR. WRONKO: Form objection.

6 A. Dr. Lento said it was.

7 Q. Do you know whether that's correct or
8 not? Do you know whether this is a disciplinary
9 action under the hospital's policy?

10 A. The hospital did have a policy on
11 academic advisement that has since -- I cannot
12 assess. I believe they removed that policy from
13 their manual or whatever it was that they had it
14 in. But this is a form of disciplinary action and
15 it can be contested.

16 Q. And what's the basis for your belief
17 that an academic advisement can be contested?

18 First of all, before you answer that
19 question, contested how? How do you believe it
20 can be contested?

21 A. Well, I wrote to the department. It's
22 an internal form of discipline that's taken by the
23 department of pathology against me.

24 So I wrote to the department, I
25 explained my point of view and reiterated my

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1 Varughese

2 concerns. That's essentially contesting or
3 requesting that my concerns be reexamined.

4 Q. So going back to the meetings every
5 three to four weeks, how long was the academic
6 advisement for?

7 A. Well, it says here how long it was
8 supposed to be for.

9 Q. If you look at the second page under
10 "Follow up," it says, "We will meet again in three
11 months to review your progress."

12 A. Right.

13 Q. So does three months sound right?

14 A. It sounds right.

15 Q. So between December 21st of 2012 and
16 March 21st -- of 2010 rather and March 21st of
17 2011, during that three-month period, how many
18 times did you meet with Dr. Lento to discuss your
19 progress under the academic advisement?

20 A. Right, so I met with him on January
21 10th where they informed me that I continued to be
22 on academic advisement. Therefore moving the
23 scale or the time period pushing it forward from
24 January 10th to February, March, April 10th of
25 2011 technically. That's the period of academic

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1 Varughese

2 advisement, I believe, and then I met with him
3 perhaps three, four times in that time period.

4 Q. To discuss the academic advisement.

5 A. Yes, that was also discussed.

6 Q. The second bullet point says,
7 "Continued performance of assigned resident duties
8 under the guidance of Pathology Chief resident(s),
9 Pathology faculty and/or Program Director."

10 And during the three-month period of
11 the academic advisement did you continue to
12 perform your assigned resident duties?

13 A. Yes, of course.

14 Q. Did anybody tell you that you hadn't
15 performed your resident duties?

16 A. No.

17 Q. Then says write a "self-reflection
18 exercise (to be handed in to me within 4 weeks).
19 You are expected to write down your account of the
20 situation and describe how you could have
21 approached things in a better fashion, including
22 commentary on physician professionalism and its
23 role in this circumstance."

24 Do you see that, the third one?

25 A. Right.

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1 Varughese

2 Q. Did you hand in your self-reflection
3 essay to Dr. Lento within four weeks of the
4 academic advisement?

5 A. No.

6 Q. Why not?

7 A. Because there was several other
8 investigations going on. I was still meeting with
9 the Physician Wellness Committee and I was meeting
10 with, um, what is it? the graduate medical
11 education. I had met with HR.

12 So there were other investigations
13 going on, which is why I was surprised Dr. Lento
14 would place me back on academic advisement given
15 that there was an investigation that was going to
16 take place regarding the summary of events even,
17 which is false obviously.

18 Q. Dr. Varughese, how does all of what
19 you just said, assuming it's all true, how does
20 all of that excuse you from handing in your
21 self-reflection evaluation by the deadline set by
22 Dr. Lento?

23 MR. WRONKO: Form objection.

24 A. How? Because the self-reflection
25 exercise is, um, assumes that I had done something

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1 Varughese

2 wrong here and how I could approach things in a
3 better fashion and not Samuel McCash. My concern
4 was that, you know, he had something, he had done
5 something wrong and he has a pattern of behavior
6 that is deeply troubling and extends into physical
7 intimidation.

8 Q. Was Dr. Lento the program director at
9 that time?

10 A. I believe he was, yes.

11 Q. And as the program director, to put it
12 in an overly simplistic way, he was your boss?

13 A. Right, but he never e-mailed me or
14 contacted me. He also did not follow up
15 frankly with --

16 Q. Dr. Varughese, is there anything that
17 you don't understand about hand in a
18 self-reflection essay within four weeks?

19 MR. WRONKO: Form objection.

20 Q. Really, I assume, Dr. Varughese, that
21 we can both calculate four weeks from December
22 21st, correct? Yes?

23 A. Frankly --

24 Q. Yes or no, can you calculate four
25 weeks from December 21st?

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1 Varughese

2 MR. WRONKO: Form objection. You can
3 answer.

4 A. Can I do that? Yes.

5 Q. And Dr. Lento who's your program
6 director and your boss told you to hand in a
7 self-reflection evaluation in four weeks and you
8 didn't do it.

9 So my question to you is, why do you
10 think that the other things you described excused
11 you from following the direction of your program
12 director?

13 A. Frankly, I had contested it and
14 because of that, one; two, he did not stipulate to
15 me that the academic advisement still stood as it
16 did. But him wanting the self-reflection, he did
17 not inform me as such.

18 I met with him on January 10. He
19 didn't say, well, within two weeks I would like
20 that self-reflection exercise. I mean, he's my
21 boss. He should know what is required and he
22 didn't do that.

23 Q. Did anybody ever tell you that you
24 weren't on academic advisement regardless of
25 whether you contested it or not?

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1 Varughese

2 A. Did anybody tell me I wasn't?

3 Q. Yes.

4 A. No. They only told me on January 10th
5 that I definitely was on academic advisement.

6 Q. Dr. Varughese, do you have any doubt
7 when you got the December 21st notice of academic
8 advisement that you were on academic advisement
9 whether you thought it was fair or not?

10 A. Yes, I did have some doubt about that.

11 Q. What was your doubt? What was the
12 basis of your doubt?

13 A. Well, my basis of my doubt was that
14 all the concerns that I had brought up. It was
15 completely ignored. They did not answer my
16 question about McCash and if any actions were
17 being taken against him.

18 And I had also spoken to Dr. Stimmel,
19 who was ombudsman at the hospital. And I wanted
20 to discuss this document with him as well to see
21 what his opinion was.

22 Q. So because you disagreed with him and
23 thought it was unfair you thought it was
24 ineffective.

25 MR. WRONKO: Form objection.

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1 Varughese
2 Mischaracterizes her testimony.
3 MR. McEVY: That's what I am asking
4 her.
5 A. That's not what I said.
6 Q. You got the notice of academic
7 advisement, right? It says, "This letter is
8 to" -- first sentence. "This letter is to inform
9 you that you are being placed on Academic
10 Advisement."
11 Is that the first sentence?
12 A. Yes. This is just essentially a
13 retaliation document.
14 Q. I didn't ask you what you think it is.
15 A. Retaliatory document.
16 Q. Is that what it says, Dr. Varughese,
17 that you're being placed on academic advisement?
18 Yes?
19 A. "This letter is to inform you."
20 That's what it states, the first sentence.
21 Q. And so regardless of why you thought
22 you were given it, whether it was retaliatory or
23 not, why would you have any doubt that you were on
24 academic advisement as of December 21, 2010,
25 simply because you didn't agree with it or you

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1 Varughese
2 thought it was retaliatory, or whatever it is you
3 thought about it?
4 MR. WRONKO: Form objection. You can
5 answer.
6 A. Well, I had informed Dr. Pessin and
7 Dr. Lento that I would be speaking to Dr. Stimmel
8 regarding this particular document and I would
9 have to get some advice or counsel regarding my
10 options.
11 So yes, there was some -- and they
12 agreed with that. They did not say, well, just
13 because we gave you this you're automatically,
14 even though it says this, it's something that I
15 have to agree because it is a course of action
16 for --
17 Q. So you thought you were free to
18 disregard that plan of action.
19 MR. WRONKO: Form objection.
20 A. That's not what I said.
21 Q. I am trying to understand what you're
22 saying, Dr. Varughese.
23 A. Well, what I said was I would speak to
24 Dr. Stimmel and obtain some counsel and I would
25 get back to them.

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1 Varughese
2 Q. And you never signed the academic
3 advisement, correct?
4 A. No, because it's a false set of events
5 and I found this to be extremely retaliatory.
6 Q. Retaliatory for what?
7 A. And discriminatory.
8 Q. Let's do one at a time. Retaliatory
9 for what?
10 A. Retaliatory because I had complained
11 about McCash was harassing me. He has a record of
12 harassing me. And instead of taking any actions
13 or obtaining some mediatory meeting to make sure
14 that there is like a functional work environment,
15 that they did not do that. Rather they took
16 actions against me.
17 Q. And in what way do you think this is
18 discriminatory?
19 A. Well, Dr. McCash is a white male and I
20 felt that they were inherently favoring him and
21 his future.
22 Q. And --
23 A. As opposed to me.
24 Q. I'm sorry. And other than the fact
25 that he is white male is there any other basis for

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1 Varughese
2 your belief that it was discriminatory?
3 A. Right. Then it says here that, you
4 know, somehow Dr. Jordan is now involved in this
5 whole situation and, I mean, I felt like she's
6 also, you know, a Caucasian female and I felt like
7 they were just, you know, by default, they felt
8 that they need to protect her future and her
9 career at an expense to me.
10 Q. Because she is a white female.
11 A. Well, at that point I did not make
12 that conclusion, but, you know, in retrospect I
13 believe that's true.
14 Q. Did you ever prepare the
15 self-reflection evaluation?
16 A. Yes, I did prepare self-reflection.
17 That is my account. "Write down your account," so
18 I wrote down my account of the situation.
19 Q. When did you submit that to Dr. Lento?
20 A. I submitted that on March 30th.
21 Q. I show you a document.
22 MR. McEVY: We'll mark this as
23 Exhibit 21.
24 (Defendants' Exhibit 21, e-mail from
25 Leena Varughese to Lento and Barnett dated

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Varughese

March 30, 2011, with attached reflection for the Notice of Academic Advisement, marked for identification, this date.)

Q. Have you had a chance to look at it, Dr. Varughese?

A. Yes.

Q. Is this the self-reflection essay that you submitted to Dr. Lento on March 30th?

A. Yes.

Q. And do you believe that this self-reflection essay meets the requirements for the essay that was set out in the Notice of Academic Advisement?

A. Yes.

Q. Why did you submit it on March 30th?

A. I submitted it because I was encouraged by Dr. Figur to submit it.

Q. Any other reason that you submitted it on March 30th other than because Dr. Figur encouraged you to do so?

A. I also felt that I felt more threatened at work.

Q. What?

A. Threatened and afraid to be at work

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Varughese

because of the Physician Wellness Committee and I just felt extremely harassed and harangued by the hospital and its leadership and all this. So I felt I -- and I was also encouraged to submit it at that time, the reflection, so for those reasons I submitted the reflection at that time.

Q. The fourth bullet point which is on the next page, is entitled "Reading Exercise."

A. Right.

Q. "You are expected to read the book entitled Practicing excellence: A physician's manual to exceptional health care by Steven Beeson during the 3 month period of academic advisement," and then in parentheses it says "we can obtain a copy for you if necessary."

A. Correct.

Q. Did you read the book during the three months of academic advisement?

A. Yes, I did.

Q. Did you have a copy of it?

A. Yes, I did have a copy of it.

Q. So you didn't have to purchase one or ask the hospital to purchase one for you?

A. Well, eventually I had one and I lost

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Varughese

it and then I had it repurchased and, yeah, which the copy I lost again.

Q. When did you read the book?

A. I read the book during that time.

Q. When during that time?

A. During that three-month period.

Q. When?

A. When?

Q. Yes.

A. It was, um, I believe it was like February or March. I read it during that time.

Q. I show you another document.

MR. McEVROY: We'll mark this as Exhibit 22.

(Defendants' Exhibit 22, e-mail string dated February 17, 2011 between Leena Varughese and Patrick Lento, marked for identification, this date.)

Q. Have you had a chance to look at that?

A. Yes.

Q. And it's an e-mail from Dr. Lento to you dated February 17, 2011 at 2:53 p.m. saying "Leena, I need to meet with you tomorrow. Please let me know of potential available times," signed

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Varughese

"Pat."

You responded the same day at 3:47 p.m. saying "I can meet with you at 5:30 p.m. tomorrow. May I ask you what is the meeting regarding?"

And Dr. Lento e-mails you back at 4:56 p.m. on the same day, saying, "Well, 2 things: I was hoping we could look at one of your autopsy cases that we have together and also follow up on the academic advisement stuff."

Did you meet with Dr. Lento on February 18th?

A. The -- we may have met. I'm not sure.

Q. So you don't recall whether the meeting took place or not.

A. Well, I did meet with him several times.

Q. No, February 18th.

A. February 18th I may not have met with him.

Q. Other than Dr. Lento did you meet with anybody else during that three-month period to talk about your academic advisement?

And by anybody else, did you meet with

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1 Varughese
 2 Dr. Pessin? Did you meet with Dr. Bleiweiss? Did
 3 you meet with anybody other than Dr. Lento?
 4 A. No.
 5 Q. Now, in the spring of 2011 did the
 6 chair of the department change?
 7 A. Yes.
 8 Q. And was there a new incoming chair?
 9 A. Right, I believe Dr. Pessin was the
 10 interim chair and she left.
 11 Q. And who replaced her?
 12 A. Cordon-Cardo, Carlos Cordon-Cardo.
 13 Q. When did Dr. Cordon-Cardo become the
 14 chair of the pathology department?
 15 A. I'm not sure. Like I think April,
 16 April 1st, 2011.
 17 Q. And before Dr. Cordon-Cardo came to
 18 Mount Sinai did you know him?
 19 A. No.
 20 Q. Had you ever met him?
 21 A. Well, he gave several lectures.
 22 Q. Gave several lectures when?
 23 A. I believe February and March of 2011.
 24 Q. Where were those lectures?
 25 A. They were in the conference room.

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1 Varughese
 2 Q. And when did you learn that
 3 Dr. Cordon-Cardo was going to become the chair?
 4 A. I believe after those lectures they
 5 decided to hire him. I'm not sure. I'm not sure
 6 that's the story. I don't know.
 7 Q. And prior to Dr. Cordon-Cardo
 8 officially becoming the chair at the beginning of
 9 April of 2011 did you speak to him at all?
 10 A. No.
 11 Q. Did you ever have any conversations
 12 with him prior to then?
 13 A. No.
 14 Q. When was the first time that you spoke
 15 to Dr. Cordon-Cardo?
 16 A. When did I speak to him first? I
 17 spoke to him May 3rd or -- believe it was May 3rd
 18 or 4th of 2011.
 19 Q. Where did that conversation take
 20 place?
 21 A. In his office.
 22 Q. Who was present?
 23 A. It was Dr. Lento and Mr. Castaldi.
 24 Q. Who is Mr. Castaldi?
 25 A. Andrew Castaldi I believe was interim

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1 Varughese
 2 chair. I'm sorry, he was interim department
 3 administrator or the hospital administrator. I
 4 believe he used to work for the department of
 5 genetics before.
 6 Q. And how did that meeting come about?
 7 A. Because I got an e-mail from Dr. Lento
 8 saying that he would like to meet with me and the
 9 period of academic advisement ended and then I
 10 believe Mr. Castaldi e-mailed me stating that they
 11 would also like to meet with me, meaning
 12 Cordon-Cardo and Castaldi. So that's what
 13 happened.
 14 Q. Now, when you submitted the
 15 self-reflection essay on March 30th of 2011, had
 16 you had any communications with Dr. Cordon-Cardo
 17 about that?
 18 A. No.
 19 MR. WRONKO: Do you need a moment?
 20 THE WITNESS: No.
 21 Q. I show you a document.
 22 MR. McEVOY: Mark this is as Exhibit
 23 23.
 24 (Defendants' Exhibit 23, e-mail chain,
 25 May 2011, to Leena Varughese from Castaldi

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1 Varughese
 2 and Cordon-Cardo, marked for identification,
 3 this date.)
 4 Q. Have you had a chance to look at that
 5 document?
 6 A. Yes.
 7 Q. And can you tell me what it is?
 8 A. It's an e-mail chain from Cordon-Cardo
 9 to me May 9th and another e-mail from Andrew
 10 Castaldi May 17th.
 11 Q. So the first e-mail from
 12 Dr. Cordon-Cardo to you, the May 9th one, says,
 13 "Dear Leena: As a follow-up to the message below,
 14 we would like to confirm that we will be meeting
 15 on the agreed May 24th at noon. In preparation
 16 for this meeting, you should send us the written
 17 'reflection' by May 23rd so we have time to review
 18 it."
 19 Do you see that?
 20 A. Right.
 21 Q. Had there come a point where you had
 22 been asked to rewrite the written reflection, the
 23 self-reflection?
 24 A. Yes.
 25 Q. Who asked you to do that?

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Varughese

A. Castaldi, Lento and Cordon-Cardo.

Q. When did they ask you to rewrite the self-reflection?

A. When I met with them on May 3rd.

Q. And did they tell you why they wanted to you review the self-reflection?

A. Yes. They said it just didn't -- it wasn't what they wanted and --

Q. Who said that?

A. Mr. Castaldi.

Q. And what else happened at that May 4th, I think you said? May 4th meeting?

MR. WRONKO: May 3rd.

Q. I'm sorry.

A. May 3rd or 4th. I'm not sure.

Q. Either one, May 3rd or 4th. What else happened? They talked about the self-reflection.

A. Right, they talked about the self-reflection. I mean, they were just very aggressive and rude and unprofessional towards me.

Q. Again, Dr. Varughese, I'm not interested so much in your conclusions about their behavior. I'm interested in what they said to you at the moment.

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Varughese

So what else did they say to you other than that they wanted you to rewrite the self-reflection essay?

A. Right, they were -- gosh, I have to think about this for a minute.

Q. Take your time.

A. OK. Right. I mean, what I remember now is they asked me if I had met the requirements and I told them that I thought I met the requirements for academic advisement and the reflection and they said that I did not.

And they said they didn't want to know what my point of view was because they already knew and it wasn't essentially relevant. And just which was what I was told all along. And just they continued reiterating that point.

Q. What did you say during the meeting on May 4th?

A. Well, I just said that I thought I had, um, did what I was asked to do and I wrote the reflection and I thought that it reflected that adequately. And that's -- let me see what else I said.

Well, I mean, I really didn't say

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Varughese

much. Really that's all. I just thought I had met the requirements and I did what I was supposed to do.

Q. Let me show you another document.

MR. McEVROY: Mark 24 as Exhibit 24.

(Defendants' Exhibit 24, e-mail from Cordon-Cardo to Varughese dated May 4, 2011.

Bates Nos. P1119 and 1120, marked for identification, this date.)

Q. Did you have a chance to look at that document?

A. Yes.

Q. It's an e-mail to you from Dr. Cordon-Cardo dated May 4, 2011, with copies to Dr. Lento and Mr. Castaldi, correct?

A. Right. Yeah.

Q. Now, when did Mr. Castaldi come to Mount Sinai?

A. I don't know. He may have been working there for a very long time, but I didn't know him though. I just met him.

Q. So prior to the May 4th meeting you hadn't met Mr. Castaldi?

A. No.

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Varughese

Q. The e-mail says, "Dear Leena: Thank you for your time yesterday. I believe we had a productive discussion. As per our agreement, you will be reading the assigned book and re-write the assigned personal reflection essay modeling into future constructive developments. We also agreed that you would be able to do such exercises during the upcoming two to three weeks. You should purchase the book, and the Department will reimburse you. We look forward to meeting with you again on May 24th, at noon. Please, let me know if this is a convenient date and time for you, and do not hesitate to contact my office if you need further information."

So as of May 3rd when you met with Dr. Cordon-Cardo had you read the book that you had been assigned?

A. Yes.

Q. So then was there some reason that you know of that Dr. Cordon-Cardo was under the impression that you hadn't read the assigned book?

A. Well, that was a conclusion that they made even though I said I had read the book.

Q. So you told them you read the book.

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Varughese

1
2 A. Right.
3 Q. And they said you hadn't.
4 A. Right. I mean, it seems to be the
5 theme.
6 Q. Did anybody say anything as to why
7 they thought you hadn't read the book?
8 A. Right, they wanted to know who the
9 author was and I couldn't remember at that time.
10 Q. Did they ask you any other questions
11 about the content of the book?
12 A. Right, they asked me what, you know,
13 what do I think it's about. And I said, well, I
14 mean, the book is rather broad. It goes into
15 various different aspects, including a primary
16 care perspective of interacting with patients and
17 the business model and also like working with your
18 colleagues and, you know, professionalism in terms
19 of these various different areas of medicine and
20 general or primary practice.
21 So I wasn't sure what they were
22 looking for in terms of, um, in way of assessing
23 if I had read the book. So I asked them to be
24 more specific and they didn't want to get more
25 specific about what I should have read or what

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Varughese

1 point they wanted me to expand on.
2 Q. During did this meeting on May 3rd,
3 did Dr. Cordon-Cardo say to you that because he
4 was new to the department -- Dr. Varughese, what
5 are you doing?
6 A. Go ahead.
7 MR. McEVOY: Mr. Wronko, would you ask
8 your client to put her phone away or else
9 take a break and do whatever she needs to
10 do. I have no objection to doing that.
11 MR. WRONKO: I said the same thing.
12 Do you need a break.
13 THE WITNESS: Yes, I do need a break
14 actually.
15 MR. McEVOY: Let's take a few-minute
16 break. Dr. Varughese, do whatever you need
17 to do with your phone and then when you come
18 back let's put it away.
19 THE WITNESS: OK, great. Sounds good.
20 (A recess was taken from 12:32 to
21 12:38.)
22 BY MR. McEVOY:
23 Q. Dr. Varughese, at the May 3rd meeting
24 did Dr. Cordon-Cardo say to you that because he

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Varughese

1 was new to the department and the new chair that
2 he wanted to give you a clean slate, go forward
3 based on a clean slate?
4 A. Well, I wasn't at odds with him, so I
5 didn't know what he was referring to.
6 Q. Did he say that?
7 A. I believe he did.
8 Q. What did you understand that to mean?
9 A. I thought that was a threat.
10 Q. Why did you think it was a threat?
11 A. Because I had no difference of opinion
12 with him. There was no issues there. Whatever he
13 thought I had done, he doesn't even know what it
14 was. I mean, he made some, I mean, for him to
15 make such a statement seems rather odd to me.
16 Q. And you said before that, and I may
17 not remember the exact words, but you said before
18 that you thought that Dr. Cordon-Cardo and
19 Mr. Castaldi during this meeting were -- we can go
20 back and look, but let me just ask you.
21 How would you characterize their
22 attitude towards you during that time?
23 A. It was just very, um, their attitude
24 was arrogant, chauvinistic, misogynistic. That's

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Varughese

1 what I got from them.
2 Q. What is the basis of your belief that
3 it was antagonistic?
4 A. Antagonistic by misogyny and
5 chauvinism?
6 Q. Yes.
7 A. Just the tone of the way they spoke to
8 me and they're not happy. We feel like you didn't
9 satisfy -- I don't know. I just felt like it was
10 really demeaning and sexist.
11 Q. Was there some particular words that
12 they used? Was it their tone of voice? What was
13 it?
14 A. It was a tone of voice, but they also
15 said that, Dr. Lento also said that we spoke to,
16 what is it? We spoke to Sam, but we decided to do
17 something with you. You know, that kind of
18 language and that comparison, direct comparison
19 between me and him to say, well, we only find you
20 at fault. We just spoke to him.
21 It basically confirmed my suspicion
22 that they were not taking any sort of disciplinary
23 action or any sort of action against Sam McCash.
24 Q. Leaving Dr. Lento aside for a second,

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Varughese

we're talking about Dr. Cordon-Cardo and Mr. Castaldi. So you said it was their tone of voice?

A. Right, Mr. Castaldi said, We feel like, I mean, he immediately put himself into that, into this group with Dr. Lento and Cordon-Cardo. He said, We feel like that you didn't do this. I mean, he was speaking for the group.

Q. When he said we feel this, what did he say? You didn't do what?

A. We feel like you didn't address what you were supposed to address in this. We're going to give you another chance.

Q. Are you talking about the self-reflection essay?

A. Right.

Q. Anything else that he said, Mr. Castaldi, that he thought you didn't do?

A. Well, I mean, I believe he submitted a tape into evidence at this point or as part of discovery.

MR. WRONKO: You have to answer his question.

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Varughese

A. So what did he say? Like it was just everything that he said. I just felt like he became overly, you know, became extremely confrontational as the meeting went on and said I could be terminated or fired from the program if I didn't do this. We're just giving you a chance. Just I'll write intimidating, harassing language. Just --

Q. Is this one of the conversations that you taped?

A. Yes.

Q. We'll get to that.

And what did Dr. Cordon-Cardo say other than his tone of voice that made you think that he was being antagonistic, misogynist and whatever other words you used?

A. Chauvinistic.

Q. Chauvinistic, there you go.

A. Dr. Cordon-Cardo?

Q. Yes.

A. Well, he wasn't really interested in the reflection. He was like it doesn't matter. He said he was like we want some future constructive, like he said in his e-mail.

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Varughese

I feel like I'm not at odds with having future constructive developments. So I mean, what the academic advisement was about, was it about future constructive developments? It was about what occurred on December 8th and he wasn't interested in me discussing my account of what had happened and my reflection on it and how I had approached things differently.

Q. So Dr. Varughese, if as you say you didn't know Dr. Cordon-Cardo or Mr. Castaldi before this meeting in May, if Dr. Cordon-Cardo was new to the institution having just become the chair, why do you believe that they had this attitude towards you that you just described?

A. Well, because Dr. Lento was extremely familiar with them. He seemed to be friends with them. And I think Dr. Cordon-Cardo and Mr. Castaldi they had a relationship with the hospital leadership as well. Scott Barnett. And it seemed like they all knew each other very well.

Q. So do you think that Dr. Barnett and Dr. Lento and whoever else in the hospital leadership you're referring to somehow spoke to Dr. Cordon-Cardo about you and --

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Varughese

A. Yes.

Q. -- said negative things about you?

A. Yes, absolutely.

Q. Do you know that happened for a fact or is that just your belief? Because they were friends and whatever else you just described.

A. Well, there was no reason for me to believe that until I met with Dr. Cordon-Cardo and then since then I've reached that conclusion that --

Q. I don't doubt you believe it. My question is, did anybody ever tell you?

A. No, but, you know what? I did see Dr. Barnett and Paul Johnson in Dr. Cordon-Cardo's office on several occasions. I mean, I didn't make the assumption it was about me.

Q. And it could very well have been about something else, right?

A. Right, it could very well have been about something else, there is no question about it. But given that they didn't know what was going on and given my reflection should be taken at face value by Dr. Cordon-Cardo since he doesn't know me, he didn't do that. He wanted me to

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1 Varughese
2 change my story. They wanted to force me to write
3 something else that I didn't believe to be true.
4 Q. So other than the fact that the
5 individuals you described were friendly with
6 Carlos Cordon-Cardo or with Mr. Castaldi and the
7 fact that you saw them talking to each other in
8 one another's office, is there any other basis for
9 your belief that hospital leadership or
10 Dr. Barnett or Dr. Lento or someone else said
11 negative things about you to Carlos and
12 Mr. Castaldi?

13 MR. WRONKO: Form objection.

14 A. Is there any form for that belief,
15 basis for that belief? Well, OK, I remember
16 Dr. Barnett and Caryn Tiger-Paillex in June, and
17 Dr. Barnett said, you know, Dr. Cordon-Cardo
18 doesn't, you know, he has an opinion of you or
19 doesn't like me, something along those lines. And
20 it bewildered me because --

21 Q. Assuming for a second, Dr. Varughese,
22 that that's what they said to you at this meeting
23 and assuming it's true, that Dr. Cordon-Cardo
24 didn't like you, why do you believe he didn't like
25 you because of what someone else told him about

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1 Varughese
2 you?

3 A. Right. I was --

4 MR. WRONKO: Form objection. You can
5 answer.

6 A. I mean, why did I believe that? I did
7 not have that belief initially. And even after I
8 submitted my reflection, second reflection, I
9 didn't have that belief. I just assumed, I mean,
10 I knew he had a negative attitude towards me and
11 he wanted me to change the reflection, but I
12 certainly did not see it as being a like or not
13 like thing till Dr. Barnett said, oh, he has an
14 opinion or he doesn't like you or something.

15 And I said, Are you kidding me? This
16 is a professional environment. Why should I be
17 concerned about being liked or not liked? This is
18 insane.

19 Q. We're off the track a little bit. My
20 question to you was did you believe that
21 Dr. Lento, Dr. Barnett or others had said negative
22 things about you to Dr. Cordon-Cardo and
23 Dr. Castaldi prior to the meeting on May 3rd which
24 explained their chauvinistic, misogynistic and
25 antagonistic attitude towards you and you said

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1 Varughese
2 they did. And when I asked you what the basis for
3 that belief was, you said they were friends and
4 you saw Dr. Barnett in Dr. Cordon-Cardo's office.
5 So my question is, other than that, is
6 there any other basis for your belief that prior
7 to the May 3rd meeting people said negative things
8 about you to Carlos Cordon-Cardo and Andrew
9 Castaldi?

10 A. Well, I believe Dr. Lento also
11 influences the new chairman, Cordon-Cardo, because
12 he is not a -- what is it? He is not really a
13 pathologist. He's a researcher, and I don't know.
14 I mean, it is surprising that he is chairman of a
15 department, of pathology, where there are
16 residents.

17 And I believe Dr. Cordon-Cardo
18 probably looked to the program director,
19 Dr. Lento, for advice. And Dr. Lento probably
20 said all those derogatory and negative things
21 about me to him.

22 Q. And that's your guess, right?

23 A. Well --

24 Q. You don't know that to be a fact, do
25 you?

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1 Varughese

2 A. No. I don't know that to be a fact.

3 Q. You said something about Dr. -- I want
4 to be sure I understood you. You said something
5 about somebody wasn't really a pathologist. Who
6 are you referring to?

7 A. Cordon-Cardo.

8 Q. What is your understanding of what
9 Dr. Cordon-Cardo's --

10 A. Well, he's an MD Ph.D. and he is a
11 researcher and he never did a residency in
12 pathology.

13 Q. So did you think he was unqualified to
14 be the chair of the department?

15 A. Well, that's not really my decision to
16 make. It's the hospital's decision. I don't have
17 an opinion one way or the other about it.

18 Q. So let me show you another document.
19 Again, this is a document that you produced to me.

20 MR. McEVROY: We'll mark this as
21 Exhibit 25.

22 (Defendants' Exhibit 25, memo dated
23 May 3, 2011, to Personnel File of Leena
24 Varughese from Andrew Castaldi, marked for
25 identification, this date.)

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1 Varughese
2 A. OK.
3 Q. Have you had chance to look at that?
4 A. Yes.
5 Q. And what is it?
6 A. It appears to be a memo written by
7 Mr. Castaldi.
8 Q. Dated May 3rd and it's to your
9 personnel file. And it's "Re: Actions Prior and
10 During Academic Advisement Meeting."
11 Correct?
12 A. Yes.
13 Q. And the first paragraph says: "Carlos
14 Cordon-Cardo M.D., Ph.D., Chairman of the
15 Department of Pathology, Andrew Castaldi, CPA,
16 MBA, administrative Director, Department of
17 Pathology, and Patrick Lento, M.D., Residency
18 Program Director, Department of Pathology were
19 scheduled to meet with Leena Varughese M.D.,
20 PGY-3S, at 11:00 a," I believe it is 11 a.m., "on
21 May 3, 2011, to discuss her Period of Academic
22 Advisement and the requirements which she was
23 asked to complete."
24 The second paragraph says: "It should
25 be noted that Dr. Varughese showed up thirty
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1 Varughese
2 minutes prior to the scheduled meeting and
3 interrupted a very important meeting between
4 Dr. Cordon-Cordon," again, a typo, "and myself.
5 In addition, during the meeting she constantly
6 rolled her eyes and in general had a very poor
7 attitude, even though all involved were willing to
8 give her a 'fresh' start, since both
9 Dr. Cordon-Cordon and myself are new to the
10 Department."
11 Do you see that?
12 A. Correct.
13 Q. How did you get this document?
14 A. It was in my file. I think it was
15 submitted to me. It was given to me by the
16 hospital.
17 Q. Given to you by the hospital when?
18 A. At the first hearing.
19 Q. In connection with the medical staff
20 hearing?
21 A. Right.
22 Q. So in this memo Mr. Castaldi said that
23 you showed up 30 minutes early to the meeting,
24 interrupted a meeting between him and
25 Dr. Cordon-Cardo.
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1 Varughese
2 Is that correct or no?
3 A. No, it's not correct.
4 Q. Did you show up early for the meeting?
5 A. I did show up early, yes.
6 Q. What happened when you showed up
7 early, if you did?
8 A. I spoke to one of the secretaries
9 there and I asked them if they were there and if I
10 could speak to them. Because I had not been
11 introduced to Dr. Cordon-Cardo or Mr. Castaldi, so
12 I just wanted to say hello and....
13 Q. And what happened?
14 A. They were busy. They were discussing
15 something. So I just waited outside. In fact,
16 then Alan Schiller walked by and interrupted them
17 and went into the office and had this talk and
18 chat, then left. That's not mentioned here.
19 Q. And so while they were meeting, they
20 being Mr. Castaldi and Dr. Cordon-Cardo,
21 Dr. Schiller went in to talk to them before your
22 meeting.
23 A. Right.
24 Q. Do you know what Dr. Schiller was
25 going in there to talk to them about?
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1 Varughese
2 A. I wasn't eavesdropping. I don't know.
3 Q. Do you know whether Dr. Schiller went
4 in there because he had been invited to go into
5 that meeting?
6 A. No.
7 MR. WRONKO: Form objection.
8 A. Not at all. There was no indication
9 that he was invited to any meeting.
10 Q. Do you know? Did anybody tell you
11 anything about Dr. Schiller going into that
12 meeting or why he went into that meeting?
13 A. Right, the secretary was there and he
14 was surprised that Dr. Schiller showed up.
15 Q. How do you know that the secretary was
16 surprised?
17 A. Because he indicated as such to me.
18 Q. What did he say?
19 A. He said, um, he asked Dr. Schiller
20 what he was he doing there, and I asked him like
21 what's going on? And he's like, I don't know.
22 Q. Then it goes on to say in
23 Mr. Castaldi's memo that you "constantly rolled
24 your eyes and in general had a very poor
25 attitude."
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1 Varughese

2 Did you constantly roll your eyes?

3 A. Not that I'm aware of.

4 Q. And I take it you don't think you had
5 a poor attitude during the meeting.

6 A. No, I don't think so. I think I was
7 very friendly and open minded.

8 Q. Now, you said that you had been asked
9 to rewrite your self-reflections, correct?

10 A. Right.

11 Q. And had you been given a deadline by
12 which to submit it?

13 A. Right. I was given a deadline.

14 Q. And what was that deadline?

15 A. It was, I believe it was before the
16 previous, um, the next meeting.

17 Q. And the next meek was scheduled for
18 May 24th.

19 A. Right.

20 Q. And in the e-mail that we looked at
21 from Mr. Castaldi to you it said: Please also be
22 sure to e-mail us your essay by May 23rd to have
23 ample time to read it before our meeting.

24 A. Yes.

25 Q. Did you submit it to Dr. Cordon-Cardo

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1 Varughese

2 and Mr. Castaldi on May 23rd?

3 A. No.

4 Q. Why not?

5 A. Because I was experiencing an
6 increased sense of anxiety and fear and I didn't
7 think my opinion or my reflection would be
8 welcome.

9 Q. Did you ever submit the
10 self-reflection essay, the second one?

11 A. Yes, I did.

12 Q. When did you submit it?

13 A. I submitted it at the meeting.

14 Q. So on the 23rd you were unable to
15 submit it because of fear and anxiety, but on the
16 morning of the 24th you had overcome your fear and
17 anxiety?

18 A. Well, I did not have a choice in the
19 meeting with the department leadership, so -- and
20 I enjoyed my work, so I also have other
21 engagements and work where I am responsible to the
22 patients. So I had multiple things going on
23 during all this time between like December and,
24 you know, June and July and August.

25 Q. The meeting takes place, the first

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1 Varughese

2 one, on May 3rd, correct?

3 A. Yes.

4 Q. And on May 3rd you're asked to rewrite
5 the essay.

6 A. Uh-huh.

7 Q. And on May 17th Mr. Castaldi says be
8 sure we have it by May 23rd.

9 So did you think, Dr. Varughese, that
10 you had a choice? You said you didn't have a
11 choice whether to meet with them. Did you have a
12 choice as to the deadline for submitting the essay?

13 A. Well, I was afraid to submit an essay.
14 I felt like they would probably take some actions
15 against me or -- I wasn't sure what the course of
16 action would be and I was afraid.

17 Q. But you submitted it on the 24th.

18 A. Right.

19 Q. Let me show you a document and ask you
20 to take a look at it.

21 MR. McEVROY: Mark it Defendants' 26.

22 (Defendants' Exhibit 26, document
23 bearing title "Reflection #2 and an addendum
24 to Reflection #1," marked for
25 identification, this date.)

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1 Varughese

2 Q. Did you have a chance to look at that
3 document?

4 A. Yes.

5 Q. It's entitled "Reflection #2 and
6 addendum to Reflection #1."

7 A. Yes.

8 Q. Is this the, I'll just call it the
9 second self-reflection essay that you submitted?

10 A. Yes.

11 Q. And this is the one you submitted to
12 Dr. Cordon-Cardo and Mr. Castaldi at the May 24th
13 meeting?

14 A. Yes.

15 Q. And again, do you believe that this
16 essay, self-reflection essay, complies with the
17 terms of the academic advisement?

18 A. I think at this point the terms of the
19 academic advisement didn't apply as far as I knew.

20 Q. And why didn't they apply?

21 A. Because they said it's a fresh start.
22 It's a fresh start, so -- I don't know what that
23 meant. That's what their opinion was.

24 Q. When they asked you to rewrite the
25 essay at the meeting, did they tell you why they

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Varughese

1 wanted you to rewrite it or what they thought was
2 wrong with the first one?

3 A. Right, it's in the tape. They said
4 they didn't agree.

5 Q. They didn't agree with what?

6 A. It wasn't what they wanted.

7 Q. Did they tell you in what respect it
8 wasn't what they wanted?

9 A. They said I just rehashed what had
10 occurred. They don't want to know about what
11 happened.

12 Essentially they didn't want my
13 account, which is what they said at the academic
14 advisement, they wanted my account of the
15 situation and how I would approach things
16 differently, which is what I did in my first
17 reflection, and so they were not happy with that.

18 Q. And when they told you that they
19 wanted you, they being Dr. Carlos Cordon-Cardo and
20 Mr. Castaldi, when they told you they wanted you
21 to write a second one or revised one, did they
22 tell you in what way they wanted that one to be
23 different from the first one?

24 A. Not very specifically.

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Varughese

1 Q. Generally?

2 A. Well, I sent the e-mail to Dr. Lento
3 asking him if there is any particular way I should
4 direct my self-reflection, the next one. But he
5 didn't e-mail me back. Instead Dr. Cordon-Cardo
6 e-mailed me whatever this e-mail was. But that's
7 it. So that's all the....

8 Q. So going back to my original question,
9 did this second reflection, self-reflection essay,
10 comply with the requirement of the academic
11 advisement regarding your preparing such an essay?

12 MR. WRONKO: Form objection. You can
13 answer.

14 A. In my opinion it did.

15 Q. Then you said that you thought somehow
16 the requirements of the academic advisement no
17 longer applied by the time you met with
18 Dr. Cordon-Cardo and Mr. Castaldi in May because
19 they said it was a fresh start?

20 A. Well, they said, Dr. Lento had said
21 the period of academic advisement had ended and
22 then, um, yeah, they kept making statements about
23 fresh start and what not.

24 Q. Did you think, Dr. Varughese, that
25 **Computer Reporting NYC Inc.**
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Varughese

1 because the three-month period, the academic
2 advisement had ended that you were then relieved
3 of your obligation to comply with whatever the
4 terms of the academic advisement were?

5 A. Well, the academic advisement is a
6 series -- as we already went over the document, I
7 mean, I didn't believe that. I was told that
8 period had ended, which led me to assume that it
9 had ended.

10 Q. I understand that it ended, but you
11 were told to read a book, right?

12 A. Right.

13 Q. And if you were told to read the book
14 in the three-month period, and I know you said
15 that you did --

16 A. Right.

17 Q. But if you hadn't read the book in the
18 three-month period do you think it was simply
19 because the academic advisement had ended and you
20 wouldn't have to read the book?

21 MR. WRONKO: Form objection.

22 A. Well, I did read the book.

23 Q. I understand that. I'm asking if you
24 thought that you had to comply with the terms of
25

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Varughese

1 the academic advisement.

2 A. I complied with terms of the academic
3 advisement.

4 MR. McEVOY: Fine. Break for lunch.
5 (A luncheon recess was taken at
6 1 p.m.)
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1 Varughese
 2 AFTERNOON SESSION
 3 (Time noted: 2:02 p.m.)
 4 LEENA VARUGHESE, resumed and
 5 testified further as follows:
 6 EXAMINATION BY (Cont'd.)
 7 MR. McEVoy:
 8 Q. Dr. Varughese, when you met with
 9 Dr. Cordon-Cardo and Mr. Castaldi on May 24th did
 10 you bring the book with you that you were supposed
 11 to read?
 12 A. Yes, I did.
 13 Q. And during that meeting did
 14 Dr. Cordon-Cardo ask you whether you had read the
 15 book?
 16 A. Yes.
 17 Q. And what did you say?
 18 A. I said I read the book.
 19 Q. Did you toss the book on the table in
 20 front of you?
 21 A. No.
 22 Q. Did you put the book on the table in
 23 any way?
 24 A. Yes, I placed the book on the table.
 25 Q. In front of you or --

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1 Varughese
 2 A. Yes.
 3 Q. -- in front of him?
 4 A. In front of me.
 5 Q. In front of you. All right.
 6 Now, did there come a time when you
 7 were placed on final warning?
 8 A. Yes.
 9 Q. When was that?
 10 A. On July 14, 2011.
 11 Q. I will show you a document we are
 12 going to mark.
 13 MR. McEVoy: Mark this as Defendants'
 14 Exhibit 27.
 15 (Defendants' Exhibit 27, so called
 16 "Final warning" letter dated July 1, 2011,
 17 to Dr. Varughese from Dr. Cordon-Cardo,
 18 Bates Nos. P859 through P861, marked for
 19 identification, this date.)
 20 Q. Did you have a chance to look at that?
 21 A. Yes.
 22 Q. Can you tell me what it is?
 23 A. This is as you described earlier, the
 24 final warning.
 25 Q. And it's dated July 1st, 2011?

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1 Varughese
 2 A. That's the date on this document, yes.
 3 Q. And you said you received it on
 4 July 14th?
 5 A. Yes.
 6 Q. How did you receive it?
 7 A. I was asked to meet with
 8 Dr. Cordon-Cardo on July 13th by Allene Carter.
 9 Q. Who is Allene Carter?
 10 A. He is a program coordinator.
 11 Q. And did you meet with Dr. Cordon-Cardo
 12 on July 14th?
 13 A. Yes.
 14 Q. Was anyone else present?
 15 A. Yes.
 16 Q. Who else was present?
 17 A. Shema Patel.
 18 Q. And who is Ms. Patel?
 19 A. Shema Patel is, she was an interim
 20 department administrator.
 21 Q. Anyone else present?
 22 A. Anyone else present? No.
 23 Q. And where did the meeting take place?
 24 A. In Dr. Cordon-Cardo's office.
 25 Q. And who spoke first at the meeting?

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1 Varughese
 2 A. I'm sorry?
 3 Q. Who spoke first at the meeting?
 4 A. I'm not sure.
 5 Q. What did Dr. Cordon-Cardo say during
 6 the meeting?
 7 A. What did he say during the meeting?
 8 He said, um, he said, Here's a letter, and it was
 9 in an envelope and he just gave me the envelope.
 10 And I said, What is in it?
 11 He said, You'll find out when you read
 12 it.
 13 And I said, Well, I have legal counsel
 14 that has contacted the hospital previously. I
 15 think it would be more prudent for him to, you
 16 know, approach my attorney regarding the matter at
 17 hand, especially if it pertains to what has
 18 occurred in the past six, seven months.
 19 And he said, No, I don't think so, and
 20 he didn't want to do that. He just said, You read
 21 it at your time, at your leisure.
 22 Q. Did you read it during the meeting?
 23 A. No.
 24 Q. Did Ms. Patel say anything?
 25 A. I believe she didn't say much, no.

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Varughese

Q. And other than what you described is there any other conversation at this meeting of 14th of July?

A. I don't know how to quite describe.

Um, right, I was wondering why he had showed up to the Bronx VA the day before, and -- I believe he showed up there the day before or something.

Q. Who is he?

A. Cordon-Cardo showed up at the Bronx VA, and so I just asked him why he didn't just think to hand me the letter. Because I had to, you know, go out of my way to go to Mount Sinai Medical Center.

Q. Because at this time I take it you were doing your rotation at the VA?

A. Right, I was doing a surgical pathology rotation at the VA, which was pretty intensive.

Q. And what did he say?

A. What did he say? That's -- I just described to you what --

Q. No. What did he say when you said why didn't you give me this at the VA when you were there yesterday?

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Varughese

A. Oh, he said, Don't worry about it. It's -- I'm giving you this letter or this document now. I asked him what it was and he didn't really describe it.

Q. How long did this --

A. Very strange.

Q. How long did the meeting last?

A. The meeting lasted about like ten minutes.

Q. Did you read the letter at some point?

A. Right, I eventually -- well, I contacted my attorney.

MR. WRONKO: And let me instruct you not to disclose anything that you discussed with your attorney.

MR. McEVROY: I agree.

Q. I'm not interested in conversations with your attorney.

A. Right, I consulted with my attorney and told him about this matter and I also contacted Dr. Cordon-Cardo and informed him about my attorney as well.

Q. My question was did you read the letter.

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Varughese

A. Yes, I eventually did read the letter.

Q. And eventually when?

A. When I met with my attorney.

Q. When was that?

A. The following day.

Q. So that would be July 15th.

A. Right.

Q. Now, the final warning says that you were placed on final warning for two reasons. If you look at the second sentence, it says failure to perform the requirements of your December 21, 2010 academic advisement and your behavior at the follow-up meeting on May 24th.

Right? Is that what it says?

A. Right.

Q. And it says: The academic advisement required you: To prepare a written self-reflection essay by January 18, 2011, to meet with me periodically to assess your progress, to read Practice in Excellence: A Physician's Manual to Exceptional Health Care.

And much of this you have already testified about, so I'm not going to ask you about it again.

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Varughese

But if you look at the third paragraph that starts "Throughout the period of Academic Advisement," there's a sentence that says: "When I asked you on March 22, 2011 when you would be submitting the essay, you responded you were 'really swamped' that week; did not know when you would have time to write the reflection, and asked to submit it the following week."

Do you recall having that conversation with someone?

A. With someone. I think this is written from the first person narrative, the program director who was Patrick Lento at that time.

Q. So did you have a conversation with Dr. Lento on or about March 22nd when he asked you about what happened, what's described here took place?

A. I'm not sure. There may have been an e-mail that I wrote.

Q. And we talked about this a little bit this morning, and I can show you the e-mail again if you want. Actually, why don't I find it.

So take a look at this which you have already seen. OK? And this is the meeting that

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1 Varughese

2 was scheduled for February 18th with Dr. Lento and
3 I asked you whether you had met with him and you
4 said you didn't recall, but you didn't think you
5 did.

6 Now, in this final warning it says:

7 Second, you failed to meet with me -- and I'm on
8 the second page of the warning, Dr. Varughese.

9 A. OK.

10 Q. It starts with, first full paragraph:

11 Second, you failed to meet with me as required by
12 the advisement. On February 17, 2011 I e-mailed
13 you that we need to meet on the following day and
14 asked that you propose potential times. Your
15 e-mail response to me indicated you could meet at
16 5:30 p.m. on February 18, 2011. On the day in
17 question you did not show up to the meeting or
18 contact me to let me know that you would not be
19 coming. When I questioned this you said that I
20 did not confirm the time. Despite this purported
21 "miscommunication," you made no effort to contact
22 me, your supervisor, to clarify any
23 misunderstanding regarding whether we were
24 meeting.

25 Do you see that?

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1 Varughese

2 A. Right.

3 Q. So did you not show up for the meeting
4 on February 18th?

5 A. Right. Did I show up? I don't think
6 I did. Because that's what he's saying here.

7 Q. Why didn't you show up for the
8 meeting?

9 A. Well, for one, I was at a different
10 institution at that time. I was at the Elmhurst
11 Hospital Center. That's in Queens, New York. So
12 I had to get all the way there from Queens, and
13 for me to get there on time I would have to leave
14 at some, you know, much earlier than 5 p.m.

15 And two, this meeting was taking place
16 after an incident at Elmhurst where I was
17 essentially asked to leave work, but not my
18 coworker, for not having -- and excuse me. And we
19 both did not have the certification, mask fit
20 certification, neither of us had it, mask fit
21 test, and they asked me to leave and they didn't
22 ask him to leave.

23 And I had complained about that, and
24 then a few days later he wanted me to meet. I
25 don't know, I just wasn't sure why he wanted to

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1 Varughese

2 meet with me, and he, I don't know, I just thought
3 they were going to take some action against me
4 again.

5 Q. If you look at the document that's
6 been marked as Defendants' Exhibit 22, you sent an
7 e-mail to Dr. Lento on February 17th --

8 A. Right.

9 Q. -- at 3:47 p.m. It says. "I can meet
10 with you at 5:30 p.m. tomorrow," correct?

11 A. Right. Anyway, I was like I'll meet
12 with him the next day, and then I couldn't meet
13 with him. I mean, for various reasons. One of
14 which was I was at Elmhurst.

15 Q. I take it you were at Elmhurst when
16 you sent this e-mail on February 17th.

17 A. I was, and I was hoping that I could
18 leave early enough to meet with Dr. Lento.
19 Actually, when I went to take the train that day
20 on the 17th, there was some problem with the train
21 track and I couldn't get on the train because
22 there was some incidents and the trains were all
23 delayed for about thirty minutes or so.

24 Q. That was the 17th.

25 A. No, on the 18th. Then I didn't get

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1 Varughese

2 back to my apartment till like, I don't know, like
3 6 p.m. or so, and Dr. Lento had not said that, you
4 know, he can meet at 5:30 either. He didn't
5 confirm the 5:30 p.m. time either.

6 I wasn't sure if he was going to wait
7 for me, because I didn't get out of the train
8 till, I don't know, it was like six something.

9 Q. And did you make any effort to contact
10 Dr. Lento?

11 A. I did. I think I called him. I
12 should have the call. I think I made an effort to
13 call him.

14 Q. It says in the final warning: "You
15 did not show up to the meeting or contact me to
16 let me know you would not be coming."

17 A. Right. He probably just didn't pick
18 up his phone.

19 Q. "When I questioned this you said I did
20 not confirm the time."

21 Dr. Varughese, I want to understand
22 what your thought process was. When you said, "I
23 can meet with you at 5:30 p.m. tomorrow. May I
24 asked what is the meeting regarding? And he says,
25 "Well, 2 things: I was hoping we can look at one

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Varughese

of your autopsy cases we have together and also follow up on the academic advisement stuff."

Did you have any confusion or doubt that the meeting was going to take place at 5:30, because you didn't say, OK, I'll see you at 5:30?

A. Right.

Q. So you thought Dr. Lento needed to confirm that time.

A. Well, it seemed like --

MR. WRONKO: Form objection.

A. I don't know. He didn't confirm that time, yeah.

Q. So you thought because he didn't confirm the time the 5:30 meeting was somehow not going to take place or you weren't sure it was going to take place.

A. I wasn't sure, but I wasn't actually going to see if he was there. And I tried calling him once I got there and he didn't pick up his phone, so I assumed he left.

Q. When you got there was it around 6 o'clock?

A. When I got to my apartment, you know, which is like four blocks from the hospital.

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Varughese

Q. Where were you living at the time?

A. Like a few blocks from the hospital at Mount Sinai housing.

Q. So when you got to your apartment, you said around 6 o'clock, you tried to call Dr. Lento and there was no answer.

A. Yes.

Q. Now, the final warning in the next to last paragraph says: "You will be required to meet biweekly for three months with Dr. Adolfo Firpo, Director For Educational Activities, to review your performance."

Who is Dr. Firpo?

A. It's somebody they hired, the hospital hired.

Q. Anything more about Dr. Firpo than somebody they hired?

A. Well, it says here he's the director of educational activities.

Q. When did Dr. Firpo start working with the hospital?

A. I believe it was July 1st or something.

Q. How did you find out that Dr. Firpo

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Varughese

was going to become, was going to start working at the hospital?

A. Well, there was talk about him starting or he's going to be hired. There was some talk that he would be hired.

Q. Was that some talk among the residents or was that some sort of more formal communication?

A. Well, I mean, it was like in the resident meeting when there's some discussion about him being hired. But then after he was hired it wasn't very clear about what his position was. Because according to the ACGME guidelines there's only supposed to be one program director who oversees residency training programs. So like we just did not know what his role was.

Q. Who's we?

A. The residents.

Q. What residents other than you were confused about Dr. Firpo's role in the department?

A. Everyone I spoke to.

Q. Who did you speak to?

A. Well, I spoke to Jonathan Chow and my classmates, I spoke to them. They weren't sure

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Varughese

what his role was either.

Q. Who did you speak to? Dr. Chow? Who else?

A. Dr. Chow, Dr. Martinez, Dr. Azar, Dr. Roman, Dr. Morency, because it's the director of educational activities, which we didn't know what that meant. He was not program director. It was a different position.

Q. Did you know Dr. Firpo before he joined Mount Sinai?

A. Well, he came for an interview and I went to that. There was an interview or some sort of discussion he had with the residents. In the morning I went to that. Then in the afternoon he actually approached me and said he wanted to speak to me.

Q. When was that?

A. That was when he came for the interview.

Q. And that I take it that was before July 1st?

A. Yes.

Q. How long before July 1st did he come for this interview?

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1 Varughese

2 A. I don't know. I have to look at the
3 hospital records.

4 Q. Did you meet with Dr. Firpo?

5 A. Right. Well, he didn't give me a
6 choice because he approached me and then he just
7 sat down next to me and then he wanted to talk to
8 me.

9 Q. So you talked to Dr. Firpo?

10 A. Yes.

11 Q. And this was during the same day that
12 he showed up for this interview?

13 A. Yes.

14 Q. Before he started.

15 A. Yes.

16 Q. So where did this meeting take place?

17 A. In the resident work area.

18 Q. Anybody else present besides you and
19 Dr. Firpo?

20 A. There was some residents there.

21 Q. Anybody else who was part of the
22 meeting?

23 A. No, it was just me and him.

24 Q. What did he say to you, what did you
25 say to him?

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1 Varughese

2 A. He just asked me, you know, he just
3 wanted to meet with me and assess the situation
4 here, and so on.

5 Frankly I was really confused by his
6 approaching me, because I wasn't chosen as the
7 chief resident. I wasn't given any sort of
8 leadership position in that program. So it was
9 odd that he would approach me and talk to me.

10 Q. Whether it's odd or not and whether
11 you thought it was strange or not, what did
12 Dr. Firpo say to you?

13 MR. WRONKO: Form objection.

14 A. What he said to me?

15 Q. Yes.

16 A. He talked to me about the residency
17 and how the program was going and what the issues
18 were. He wanted to get my perspective on what was
19 the problem with the residency program, the
20 teaching issues. He said, What do you think would
21 make this program better for people? So I gave
22 him some suggestions as to improve the program.

23 Q. What suggestions did you give him?

24 A. Well, I talked to him about Osler and
25 I suggested to him that he should consider

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1 Varughese

2 providing Osler review for senior residents to
3 sort of make up for any didactic or any
4 educational deficiencies that there were. I
5 suggested -- I mean, I made several suggestions
6 him.

7 I said, you know, at the end of the
8 day the program isn't so terrible, because it gets
9 you from point A to point B, which is essentially
10 what you need to do. I mean, that's sort of a
11 requirement to get out of this program to like
12 practice my pathology.

13 At the end of the day that's really
14 what I think, we need to get from point A to point
15 B. We don't need to have a Lexus. We just need
16 to have a regular car that gets us the job. I was
17 just using that as an analogy.

18 Q. Do you know whether Dr. Firpo spoke to
19 other residents on that day or on other days
20 before he started?

21 A. Well, that day I didn't observe him
22 speaking to anybody else.

23 Q. Do you know whether he spoke to other
24 residents?

25 MR. WRONKO: Form objection.

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1 Varughese

2 A. That day?

3 Q. Yes.

4 A. I didn't see him speaking to any other
5 residents other than at the morning meeting. At
6 the morning meeting I was also there. It was a
7 required meeting that we all had to attend, so....

8 Q. The final warning required you to meet
9 with Dr. Firpo biweekly for three months. Did you
10 meet with Dr. Firpo biweekly for three months?

11 A. I met with him formally twice. Then I
12 met with him maybe one or two more times.

13 Q. When was the first time you met with
14 him formally?

15 A. August 2nd I got an e-mail. So I just
16 wrote him back and I said, I would like to meet
17 with you right away. So I met with him.

18 Q. You said you got an e-mail August 2nd.
19 When did you meet with Dr. Firpo?

20 A. I met with him like 1 p.m. I believe.

21 Q. On August 2nd.

22 A. August 2nd or 3rd. One of those days,
23 yes.

24 Q. Where did that meeting take place?

25 A. In the east, you know, in his office

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Varughese

at that time.

Q. Was anyone else present?**A.** I believe Shema Patel was present.**Q.** What did you say to Dr. Firpo, what did he say to you during this meeting on August 2nd or 3rd?**A.** Right. So this meeting was about, you know, I had told him that I didn't agree with this particular document and, you know, I had grave concerns about --**Q.** You're referring to the final warning?**A.** Right. I told him I didn't agree with it. And he said for me to keep my job at that point I would have to agree with it or I would be fired.

And he made some phone calls to the GME office. They said if I don't agree then I would be fired. And Dr. Firpo reiterated my feeling that I was being treated disparately and unfairly and there was no real reason for me to be on any further disciplinary action given that I had thought I had met all the requirements.

Q. When you say, Dr. Varughese, that Dr. Firpo told you and he said that the GME office**Computer Reporting NYC Inc.**
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Varughese

had told him that unless you agreed with the final warning you could be terminated, what did you understand or what do you mean by the word "agree"?

A. Meaning I had to comply with this.**Q.** And by "this," you mean the terms of the final warning?**A.** Well, they said I have to agree to this. I didn't have any other option. And they didn't offer the, what is this? This appeal course of action. They didn't offer that to me at that time. They didn't say this is an option you have and you can appeal.**Q.** Dr. Varughese, let's talk about that. The last sentence, the last paragraph says: "You have a right to appeal this disciplinary action by requesting, in writing, a hearing before the House Staff Affairs Committee of the Medical Board within ten days of receiving this notice. Requests should be directed to Michael Harris, M.D., President of the Mount Sinai Hospital Medical Board, in care of the Medical Staff Office at Box 1116. If you do not appeal this action, it will become final at the end of the appeal"**Computer Reporting NYC Inc.**
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Varughese

period."

Do you see that?

A. Right.**Q.** You said that you took this letter to your lawyer's office and you read it in your lawyer's office.**A.** Right.**Q.** So you knew that you had a right to appeal.**A.** Right. That was sort of a decision that my lawyer and I --

MR. WRONKO: No, no, no.

Don't disclose --

Q. You knew you had a right to appeal.

MR. WRONKO: Don't disclose any communications with your attorney.

MR. McEVOY: I agree with Mr. Wronko.

Q. You knew you had a right to appeal.

MR. WRONKO: So you have to answer that question in a way that doesn't divulge your communication with counsel.

Q. Dr. Varughese, that's what it says, correct?**A.** That's what it says.**Computer Reporting NYC Inc.**
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Varughese

Q. And you read it, correct?**A.** Correct, I did read this document.

Yes.

Q. And so you knew regardless of what advice you got from anybody else, who else you talked to, which I'm not interested in, you knew that you had a right to appeal the final warning because that's what the document says in the last paragraph, correct?

MR. WRONKO: Form objection. You can answer.

A. Right, you read what the document says.**Q.** And you understood, didn't you, that you had a right to appeal?**A.** Oh, um, I knew I had ten days, within ten days of receiving this notice, and I was going on vacation and I was out of the hospital for ten days. It's very convenient that I was given this final warning --**Q.** I don't really --

MR. WRONKO: Let her finish.

MR. McEVOY: No, I'm not going to let her finish.

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1 Varughese

2 Q. I don't care about your vacation
3 plans. I asked you a question.

4 A. Excuse me? That wasn't my vacation
5 plan.

6 Q. Did you know that you had the right to
7 appeal the final warning?

8 MR. WRONKO: Form objection. She
9 already answered it.

10 Q. And you understood that you had the
11 right to appeal, didn't you?

12 MR. WRONKO: Form objection. Answer.

13 Q. Did you understand?

14 A. The question was already answered.

15 Q. Well, answer it again. Your lawyer
16 just told you you could.

17 A. I was told in this letter, in writing
18 it says, "hearing before the House Staff Affairs
19 Committee of the medical board within ten days of
20 receiving this notice." I was not at the hospital
21 for the following two weeks.

22 Q. And --

23 A. Then the next meeting was with Adolfo
24 Firpo on August 2nd or 3rd and they did not renew
25 that offer to me again. It was either/or. Either

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1 Varughese

2 you're on this morning and you get this or you're
3 fired today. That was the two choices that were
4 offered to me.

5 Q. And you took this letter and you met
6 with your attorney about it and you reviewed the
7 letter with your attorney, correct? I don't want
8 to know what you said, but you reviewed the
9 letter.

10 A. I did, yes, because I was represented
11 by an attorney.

12 MR. WRONKO: Hold on.

13 Q. I don't want to hear about what you
14 talked about with your lawyer.

15 MR. WRONKO: Instruction again, don't
16 disclose anything that you discussed with
17 your counsel.

18 Q. And your lawyer at that point was your
19 legal representative, correct?

20 A. Correct.

21 Q. And I take it, Dr. Varughese, that
22 while you went off on vacation your lawyer did not
23 file an appeal on your behalf, correct?

24 A. Correct. But my lawyer did contact
25 the hospital.

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1 Varughese

2 Q. I understand that. But no appeal was
3 filed on your behalf either by your lawyer or by
4 you.

5 A. Well, my lawyer did contact the
6 hospital.

7 Q. I understand that. No appeal was
8 filed. I don't care if your lawyer stood in front
9 of the hospital with a sandwich board. Did your
10 lawyer file an appeal on your behalf challenging
11 the final warning?

12 A. As far as I know, no.

13 Q. And you didn't, because you say you
14 were on vacation, correct?

15 A. Right. I wasn't here for the period
16 of ten days and it seems the hospital conveniently
17 presented me with the letter just before two weeks
18 of vacation. I mean, it's not --

19 Q. When you met with Dr. Firpo on
20 August 2nd, the ten-day period provided for in
21 this letter had expired, correct?

22 A. That's correct.

23 Q. So do you think, Dr. Varughese, that
24 they should have given you another chance to file
25 an appeal?

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1 Varughese

2 A. They should have, yes. Because I was
3 on vacation.

4 Q. Now, anything else happen at the
5 August 2nd meeting with Dr. Firpo?

6 A. Yes.

7 Q. What else happened?

8 A. This person, Adolfo Firpo is extremely
9 inflammatory and just a sexist pig for lack of a
10 better term. He said he has to figure out the
11 politics of the institution before he can assist
12 me.

13 He made, you know, he led me to
14 believe that I can attend conferences as I saw fit
15 because I was a fourth year resident or, you know,
16 senior resident in a residency program that allows
17 the senior residents to manage their own education
18 at this point. And as a licensed physician in
19 New York, I felt that I was perfectly capable of
20 doing so.

21 And he led me to believe that was my
22 right and I had the right to, you know, see to my
23 own education, see to the conferences that were
24 necessary. He led me to believe that he will try
25 to work, you know, look at my schedule, ensure

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1 Varughese
2 that all my requirements with the board of
3 pathology will be met in a timely manner and in a
4 comprehensive manner.

And then the whole, you know, he said
6 he had to figure out the politics of the
7 situation. Then when I was leaving outside of his
8 office he like, you know, told me that, Oh, I'm
9 going to try to help you, Dr. Varughese. Don't
10 worry. Just sort of, you know, trying to just
11 reassure me or something that wasn't like
12 completely formal.

13 It was just a very strange experience
14 for me personally because that to me is just
15 unprofessional. Unprofessional behavior.

16 Q. What's unprofessional?

17 A. To tell me he has to figure out the
18 politics of the situation and then pull me aside
19 and say that, Oh, I'm going to help you,
20 Dr. Varughese.

21 Q. And what's unprofessional about that?

22 A. Because the connotation was like if
23 he wanted to help me, he could have said at the
24 meeting, I'm going to help you, Dr. Varughese, you
25 know, I'm going to work with you, just plain and

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1 Varughese
2 clear, instead of why wait until, you know, I'm
3 out in the hallway to pull me aside to
4 say something. I'm not his friend.

5 This is like really just the first or
6 second time I'm meeting and they want me to agree
7 to something that I essentially disagreed with
8 even though I had not appealed. And they didn't
9 give me a due process option at that time because
10 ten days had expired because I was on vacation. I
11 don't know, this whole thing was just
12 unprofessional.

13 Q. You had met Dr. Firpo back before he
14 started and the day he came for the interview.

15 A. Right, which I wasn't very happy about
16 either.

17 Q. I got that part. Then you told me
18 that you met with him on August 2nd. Did you meet
19 with him at all between the first meeting, I'll
20 call the interview day, and August 2nd?

21 A. No.

22 Q. This is the second time you're
meeting.

24 A. Right.

25 Q. So what's the basis for you saying
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1 Varughese

2 that Dr. Firpo is a sexist pig?

3 A. Because he was, um, I had to learn the
4 politics of the situation before I'll help you.
5 Just, you know, his dismissive way of saying
6 things and I felt like if I weren't a woman he
7 would not be talking to me like that.

8 Q. Other than the fact that you're a
9 woman and that's your feeling, do you have any
10 basis for that belief?

11 A. Right. My suspicions were confirmed
12 at follow-up meetings with him.

13 Q. Right now you said to me at this
14 meeting you recognized Dr. Firpo as a sexist pig
15 and you told me that because he told you he had to
16 figure out the politics of the institution, right?

17 MR. WRONKO: Form.

18 Q. What else did Dr. Firpo say, if
19 anything, that led you to that conclusion on
20 August 2nd or 3rd of 2012?

21 MR. WRONKO: Form objection.

22 Mischaracterizes her testimony. You can
23 answer.

24 A. Right, so my concern was that if he
25 was trying to be fair and ensure that whatever

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1 Varughese

2 concerns were here about professionalism and
3 whatever else and he wanted me to improve and
4 essentially become a better physician in this
5 regard, he would approach it in an even handed
6 matter. He wouldn't say I have to rely on the
7 politics of the institution to come to my
8 conclusion or he wouldn't -- he would think of it
9 as being his duty to do the right thing in the
10 context of what his assessment was, but not to be
11 influenced by politics.

12 Q. What did you interpret his saying I
13 need to know or find out what the politics are?
14 What did you interpret that to mean?

15 A. Well, you would have to ask Dr. Firpo.
16 He testified to that again at the House Affairs
17 Committee hearing.

18 Q. I understand that Dr. Firpo is
19 perfectly capable of saying what he meant by
20 whatever it is he said, but I want to know what
21 you interpreted the -- you agree with me --

22 A. Right, which my assessment --

23 MR. WRONKO: Hold on, one person at a
24 time.

25 Q. Am I correct, Dr. Varughese, that you
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Varughese

took the statement "I have to find out what the politics are here" to be a negative towards you in some respect?

A. Well, he was --

Q. Yes? Did you?

A. Yes, this was a conversation I was having with him.

Q. Tell me why, not what Dr. Firpo thinks or knows, tell me why you thought his saying "I have to find out what the politics are here," why you thought that was somehow a negative statement about you or illustrated that he was sexist in some way. Tell me how you interpreted that statement.

A. Well, I interpreted that statement as being sort of an overarching theme of institutional male discrimination and retaliation and I just came to the conclusion it was more of the same after this discussion with him.

Q. Then you said in the answer to one of my questions that you thought you could manage your own education as a senior resident.

What does that mean?

A. It just means what ACGME and the

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contract essentially says such as that as a senior resident I'm responsible for attending to my educational needs.

Q. What does that mean?

A. That just means attending the appropriate conferences, making sure I'm in step with all the requirements, whether it's maintenance of certification or preparing for the board exam, which I brought up with the hospital leadership which is that I need to have certain rotations, certain exposure to various variety of fields in clinical pathology for me to graduate and become a well rounded pathologist. I mean, those are areas I feel, you know, those are ways you can be responsible for your own education.

Q. Did you think that you could decide what conferences you went to?

A. Yes, I thought so.

Q. Did you think that the program director or Dr. Firpo, the director of pathology educational activities, could tell you which conferences you should or shouldn't go to?

A. I thought they could tell me too and they could refer me to conferences that were

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available in the hospital, which they didn't do.

Q. Similarly with regard to what rotations and what exposures you got to the various areas of pathology did you think that the program director and the director of educational activities or the chair of the department could direct you as to what rotations you should go to, what rotations you shouldn't go to?

A. Well, the chair of the department is a different story. Now, he's a Ph.D., not a medical doctor, practicing pathologist in technical terms, but in terms of the program director, of course, that's his -- it's duty and his role to have a curriculum that is similar and not disparate among different individuals in the program.

It would be extremely uneven to have Samuel McCash or Adrienne Jordan attend or be assigned to three months of hematology, three months of blood bank, and so on and so forth, when he is not providing me with the same opportunities.

Q. When did Dr. McCash graduate from the program?

A. 2011.

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Varughese

Q. And when is graduation? When does the program end?

A. I believe June.

Q. So when Dr. Firpo joined Mount Sinai, that was after Dr. McCash graduated, correct?

A. Correct.

Q. And Dr. Cordon-Cardo arrived three months before Dr. McCash graduated, correct?

A. Correct, yes.

Q. You said you met with Dr. Firpo formally twice. You told me about the meeting on or about August 2nd. When was the second time you met with Dr. Firpo formally?

A. August 17th.

Q. And how did that meeting come about?

A. That was the second meeting of, you know, biweekly three-month meetings with Adolfo Firpo.

Q. Where did that meeting take place?

A. In his office.

Q. Was anyone else present?

A. Shema Patel.

Q. What was discussed at that meeting? What did Dr. Firpo say, what did you say?

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A. That meeting I discussed cytogenetics.

I was just on a two-week assignment of cytogenetics. So Dr. Firpo I believe asked me what did you think of this rotation and I explained that I had some concerns regarding my experience during cytogenetics.

I felt that, you know, I was being asked to cover for a number of residents because they were not -- they were out sick. And I felt that I didn't, you know, I didn't get as much time as I should on that rotation.

And I believe I told him that I was, I felt like I was being sort of harassed or intimidated by Dr. Najfeld.

Q. And did you say anything else during this meeting?

A. Right, so I, I mean, I discussed my experience on cytogenetics which was pretty negative. I felt it was pretty negative on August 17th.

Q. And what did Dr. Firpo say during this meeting?

A. Dr. Firpo, he was all over the place at this meeting. He had, I mean, he was

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discussing the program and how it was in all sorts of mess and when he came here he had all these other fires to put out, and then he told me that as a female resident I shouldn't just say no.

Q. I don't know what that means.

A. That means he said -- he didn't say it as part of, you know, he is like as part of the team as a female resident, you should not say, you cannot just say no, which was rather strange because why would you say female? Wouldn't you just say as part of the team just try to do your best and get along and get the work done, which seems more appropriate, but he said as a female resident you should not say no.

Q. What else did he say, if anything?

A. He said a lot of things. This was an hour meeting.

Q. So what I would like you to do is if you need time to think take time to think and tell me everything you recall what Dr. Firpo said at this meeting other than what you've already told me.

A. Right, and I was concerned about my rotations and being able to change my schedule.

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Varughese

So we discussed that at some length and he gave me some very conflicting information.

Q. What conflicting information?

A. One minute he said, Oh, Dr. Burgess said, yes, I can switch. Then some other doctor didn't say yes. That meeting was so like all over the place. It was just one minute it was talking about how the program is this and there are all these fires here and all these residents are complaining. Other residents are complaining about some requirements that we're making them, having them do, and therefore because they complained we cannot have these same requirements anymore.

And I was -- which was all news to me because I was at the Bronx VA for the past several months at that time, so....

Q. Was there anything else that Dr. Firpo discussed with you at this meeting?

A. Right, he told me several residents were on FMLA, on leave for some reason or another because they were in hospitals and ill. So there were several people who were ill in the residency program.

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Varughese

And what else? He said a variety of things.

Q. All I'm asking is to tell me the ones you remember. So is there anything else you remember about Dr. Firpo's conversation with you and the meeting on August 17th?

A. Right. Yeah, I do.

You know what? Can I run to the bathroom really quick?

Q. As soon as you finish answering the question.

MR. WRONKO: You have to finish the question.

A. Very good. OK.

Q. Is that all you remember?

A. No, I have to think about it actually. This is like extremely traumatizing for me. Being that somebody like this would be responsible for my career in assessing me, like this person is so unprofessional. I mean, he said a variety of unprofessional things that were really disturbing.

He said, Oh, this is Shema Patel. She's from the office of the president. She's here and she's here to help me. I was like OK. I

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Varughese

1
2 don't know.
3 Q. What did you find disturbing about
4 that?
5 A. Well, you know what? It was just the
6 entire conversation.
7 Q. No, no, no, Dr. Varughese. You don't
8 get to say I found it very disturbing that
9 Dr. Firpo introduced Dr. Shema Patel as somebody
10 from the office of the president and then when I
11 asked you, well, what did you find disturbing
12 about that --
13 A. What I found disturbing about that --
14 Q. That's what I want to know.
15 A. -- I found like the institution was
16 sanctioning whatever actions. This is not like a
17 department thing anymore. This was like the
18 entire institution was out to like sanction the
19 department's actions and whatever actions that had
20 been taken against me throughout this period and
21 completely ignoring my perspective, not just
22 perspective, what happened to me. I mean, there's
23 no question that McCash harassed me.
24 Q. So you have told me many times. So my
25 question is, what else did Dr. Firpo talk about at

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Varughese

1
2 this meeting on August 17th other than what you've
3 already told me?
4 A. He said that he wasn't really in --
5 yeah, he said he worked on policy, health care
6 policy. He didn't really, it seemed like he
7 wasn't practicing pathology per se and he was just
8 working on health care policy for the past ten
9 years and he worked in Washington and he said he
10 knew everything about, you know, essentially like
11 health care policy and rules and regulations.
12 He said that one minute. Then the
13 next minute he said, Oh, I don't know about
14 New York State administrative law. Then he
15 said -- I was concerned that the modifications
16 that they were doing to my contract and such by
17 stipulating that we agreed to like all these new
18 policies in the department were not really legal.
19 And he said, Well, I think it is legal. And he
20 thought all that stuff was legal, which I don't
21 know. I don't think he's an expert on all that.
22 Q. What else, if anything, did he talk
23 about at that meeting on August 17th?
24 A. That's all I can recall right now.
25 MR. McEVROY: So then why don't we take

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Varughese

1
2 a break.
3 (A recess was taken.)
4 BY MR. McEVROY:
5 Q. So you said, Dr. Varughese, that at
6 this August 17th meeting you thought that
7 Dr. Firpo was unprofessional, right?
8 A. Yes.
9 Q. And why do you say that he was
10 unprofessional? What do you base that conclusion
11 on?
12 A. Well, you know, he, I mean, just the
13 whole like entire meeting I just got the sense
14 that he was extremely unprofessional and a
15 chauvinist, sexist chauvinist.
16 And, I mean, he told me like he would
17 pay out of his pocket for a late fee if I could
18 not meet my requirements for board of pathology.
19 And essentially my concern was that, you know, I
20 needed to have a certain number of autopsies and I
21 wanted to do the medical examiner rotation I
22 believe just like a little bit earlier, like a
23 week earlier than January 15th because the due
24 date for the form was January 15th of 2011. After
25 that you had to pay a \$2,000 late fee. It's

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Varughese

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2 pretty significant and I was concerned about that.
3 He said, Oh, I promise to pay you.
4 Shema Patel is right here and I make this
5 statement in front of her and I'll pay this. I'm
6 like, this is ridiculous. So unprofessional.
7 Q. And why is Dr. Firpo's offer to pay a
8 late fee should you incur one unprofessional,
9 chauvinist, sexist, whatever it is you said?
10 A. Because he said he will pay it out of
11 his pocket. It's extremely patronizing because he
12 offered to pay this out of his own pocket.
13 Q. What else, if anything, did Dr. Firpo
14 do or say at this meeting that leads you to the
15 conclusion that he was unprofessional, sexist, et
16 cetera?
17 A. Well, he said that, um, he refers to
18 leadership positions and that he, you know, what
19 is it? Instead of she he uses he. He said, Oh,
20 he's the pathology executive. He makes the
21 decisions. I was like, ooh -- I don't know. And
22 he just has like a preferential language that he
23 uses for men or "males," but, you know, when it
24 comes to female he is like, oh, as a female you
25 have to -- you just can't say no.

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Varughese

Q. So are you drawing the distinction between the pronoun "he" and the word "female"?

A. Just the gender-specific terminology of he, she, female, male.

Q. So it's his --

A. Chief can be -- a woman can be a chief or a man.

Q. And so can a chair.

A. Yes, or a chair in this day and age. It's not really that specific.

Q. So I'm confused. What language or gender specific language did Dr. Firpo use other than referring to men as he and you as a female that leads you to the conclusion that he is sexist?

A. Right, he said that, you know, he said that, oh, he referred to the chief. He wasn't referring to Cordon-Cardo in general. He was saying just leadership tends to be he. Like that was what he was conveying. And then he was conveying that as a female I should not say no.

Q. I take it from what you just said that he didn't say to you leadership tends to be male. That was the conclusion that you drew.

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Varughese

A. Right. When he said chief, which is like the chair leadership position. Like not being an attending pathologist is technically -- when there's a hierarchy it's not a leadership position when you are just....

Q. At the time that you had this meeting with Dr. Firpo the chair or the chief of the department was Dr. Cordon-Cardo, correct?

A. The chairman of the department, yes.

Q. The chair, which is gender neutral, the chair of the department.

A. Right.

Q. And Dr. Cordon-Cardo is a he.

A. Right, but he wasn't referring to Dr. Cordon-Cardo.

Q. Who was he referring to?

A. Just general. He was making a statement directed at me.

Q. Anything else that Dr. Firpo did or said during this meeting that led you to the conclusion that he was unprofessional, sexist, et cetera?

A. Right, the patronizing comment that he made saying "I'll pay out of my pocket," he

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Varughese

repeated that. He wasn't as if he said it once. He repeated it again, and I was completely just disgusted and at this point I was frankly terrified of him.

Q. You were terrified of him.

A. Right, because that's the, I mean, as a young woman in this profession where I want some sort of disciplinary reaction and my supervisor speaks to me this way, it makes me really question my position in the organization and it makes me question how can I go about reporting something like this when any actions that are taken against or reported about me being treated poorly has been completely ignored, to actions that were taken against me, and I felt like this would be more of the same.

Because I felt like this was, I don't know if it's normal for him to say that, but it was just sort of a, you know, assertion of power to show that he's a guy, he's a boss here, he can say whatever he wants and technically he is, you know, chosen by Cordon-Cardo. I had nowhere to go.

Q. Did you go to labor relations to
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express your concerns?

MR. WRONKO: Form objection.

A. I had contacted Caryn Tiger.

Q. No, you just told me you just had a meeting where Dr. Firpo, one on August 2nd, one on August 17th. You described that meeting in which you came to the conclusion that he was a sexist pig, that he was chauvinistic, that he was a number of other things and you were terrified of him.

A. Right.

Q. So after that meeting on August 17th did you go to labor relations and say: You know? I want to make a complaint. I have these concerns. This just happened.

Did you do that?

A. No, I didn't.

Q. Did you complain to anybody in the institution?

A. Well, I talked to my colleagues.

Q. No, somebody in a position of authority.

A. Right.

MR. WRONKO: Form objection.

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1 Varughese

- 2 A. I felt like there was like nowhere I
3 could really go. Because I'd already exhausted
4 the route, leadership route before with Scott
5 Barnett, Caryn Tiger, the department. I didn't
6 think like I had really any options, and if I did
7 make a complaint it would just be very futile.
- 8 Q. Now, you were supposed to meet with
9 Dr. Firpo biweekly for three months, which would
10 suggest that there should have been at least six
11 meetings with Dr. Firpo. You said you had two
12 formal meetings.
- 13 Why did you not have more formal
14 meetings with Dr. Firpo?
- 15 A. Well, I would not have had that many
16 meetings.
- 17 MR. WRONKO: Form objection.
- 18 A. I think I would have had at most four
19 meetings, not six.
- 20 Q. Wait a minute, Dr. Varughese. Three
21 months.
- 22 A. Three months, yes.
- 23 Q. Biweekly is every two weeks, correct?
- 24 A. Correct.
- 25 Q. How many weeks are there in three

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1 Varughese

- 2 months?
- 3 A. Well, I was fired on September 21st
4 and I met with him for the first time on
5 August 2nd. So that gives me about a month and a
6 half, which would be about, what? How many weeks
7 is that? Five, six weeks. So that would be like
8 three meetings.
- 9 Q. July 14th to September 21st is a
10 little over two months.
- 11 A. I was on vacation for two weeks after
12 July 14th.
- 13 Q. My question is, you had two meetings.
14 Would you agree with me that there should have
15 been more than two meetings, whether it is four,
16 five or six?
- 17 A. Well, I had concerns about my
18 interactions with Adolfo Firpo. So I was trying
19 to figure out what the best course of action was
20 with that, and that being one reason. I had a
21 meeting with, that was arranged. I was arranged
22 to meet or I had an appointment with him to meet
23 with him on September 7th, I believe, which I
24 didn't go to. I didn't go to that meeting.
- 25 But I called him to let him know that

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1 Varughese

- 2 I would like to reschedule at some point.
- 3 And what happened after that? Let's
4 see. So I called him and I wanted to reschedule
5 that meeting with him and he did not pick up his
6 phone or he picked up his phone, but then he hung
7 up the phone on me several times, which was very
8 strange.
- 9 Q. I agree with you there. So wait a
10 minute. I want to understand. You called
11 Dr. Firpo. Dr. Firpo picked up his phone and then
12 hung up on you?
- 13 A. Right.
- 14 Q. Tell me how that came about. What
15 happened there? You called and he answered the
16 phone?
- 17 A. I was like, Hi, it's Leena. I'm
18 sorry, I'm not going to make this meeting. Can I
19 reschedule? And he would just hang up.
- 20 Q. How many times did that happen?
- 21 A. Like four or five times.
- 22 Q. In the same day?
- 23 A. Same like ten-minute period.
- 24 Q. So you would call Dr. Firpo, say what
25 you just said. He would hang up on you. You

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1 Varughese

- 2 would call back, repeat what you just said. He
3 would hang up on you?
- 4 A. Right, because I wanted to make sure
5 it wasn't like a connection problem, because I was
6 trying to make sure that I could get my point
7 across without having to e-mail or just --
- 8 Q. Why did you want to reschedule this
9 September 7th meeting?
- 10 A. Because I wanted to, because I did not
11 know what my options were at that point in terms
12 of Adolfo Firpo. So I just thought probably the
13 best thing I should do was continue to have these
14 meetings, because they were stipulated according
15 to this document I guess.
- 16 Q. So why didn't you go to the
17 September 7th meeting?
- 18 A. Why didn't I go? Why didn't I go? I
19 don't know for now why I didn't go.
- 20 Q. You mentioned before, Dr. Varughese,
21 that you were on a tumor cytogenetics rotation in
22 August of 2011?
- 23 A. Yes.
- 24 Q. What is tumor cytogenetics?
- 25 A. Tumor cytogenetics is --

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Varughese

MR. WRONKO: Form objection.

A. What is it? It's essentially a field of pathology where you characterize tumors based on cytogenetic rearrangements that can be visualized at a microscopic level.

Q. Had you been on a rotation in tumor cytogenetics prior to August 2011?

A. Right, I was on a two-week rotation prior to the rotation in August.

Q. I think you may not have heard my question. How long was the tumor cytogenetics rotation for?

A. Oh, two weeks.

Q. And it started on August 1st of 2011, correct?

A. Correct.

Q. Had you done a rotation in tumor cytogenetics prior to August 1st of 2011?

A. Yes.

Q. When did you start a rotation before?

A. I don't recall what the date is exactly now, but it was probably a year prior.

Q. Was that at Mount Sinai or was that one of the affiliates?

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Varughese

A. It was the same laboratory, Dr. Najfeld.

Q. So you had worked with Dr. Najfeld before?

A. No, I hadn't worked with her because at that time she was working on a grant and she did not want to spend any time with me.

Q. So when you had the rotation the year before you had not worked with Dr. Najfeld.

A. No.

Q. During the rotation in August of 2011, the one that started on August 1st, who was your supervisor during that rotation?

A. Well, Dr. Najfeld is the supervisor, but she didn't want to work with me.

Q. When you say that she didn't want to work with you, why do you say that?

A. Because she said she was working on a grant and she couldn't work with me. That's what she said to me.

Q. When did she say that?

A. During the first week of that rotation.

Q. Did Dr. Najfeld work with you during

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Varughese

the rotation?

A. No.

Q. Were you scheduled during that rotation to give a clinical case presentation?

A. During that rotation, no.

Q. No?

A. The first two-week rotation?

Q. Between August 1st of 2011 and August 12th of 2011.

A. The second part --

Q. That's what we're talking about now.

A. OK.

Q. So during that rotation, were you scheduled to give a clinical case presentation?

A. Yes.

Q. Who assigned that presentation to you?

A. Who assigned the presentation? It was Dr. Najfeld.

Q. How did she assign it to you?

A. She told me that I should do a presentation on, what is it? CML, I believe.

Q. What is CML?

A. Chronic myelocytic leukemia. Or chronic myeloid leukemia.

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Varughese

Q. When did she assign that to you?

A. I believe it was Thursday.

Q. Thursday?

A. The 4th.

Q. The 4th?

A. Right.

Q. And after she assigned the case presentation to you, what did you do to prepare the presentation?

A. I just looked up background data. I looked up the basic information, and that's it.

Q. Did you prepare a presentation?

A. I did.

Q. When was the presentation due to be presented?

A. It was due to be presented on Tuesday, the following week.

Q. That was August 9th?

A. Correct. If that's a Tuesday.

Q. And when did you send the presentation to Dr. Najfeld for her review?

A. I went to her office. She wasn't there. So I was prepared to discuss the presentation in person with her.

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1 Varughese
2 Q. When you say --
3 A. On Monday.
4 Q. Monday, August 8th.
5 A. Right, she wasn't there on Friday,
6 August 5th. She was working from home she said
7 and she was not to be bothered.
8 Q. So you went to her office on August --
9 when did you complete the presentation?
10 A. I completed the presentation on --
11 MR. WRONKO: Form objection.
12 A. I'm not sure now.
13 Q. It was assigned to you on the 4th.
14 A. Right.
15 Q. Did you complete it by the 5th?
16 A. Did I? I probably did, yes. It
17 wasn't that complicated.
18 Q. And then you said you went to see
19 Dr. Najfeld on Monday, the 8th, but she wasn't in
20 her office.
21 A. Right, she wasn't in her office. She
22 wasn't in her office for a good period of time.
23 Q. What time did you go to see
24 Dr. Najfeld?
25 A. I believe around 1 p.m.

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1 Varughese
2 Q. When she wasn't in her office what did
3 you do, if anything, to get in touch with
4 Dr. Najfeld?
5 A. I spoke to her, one of her, you know,
6 one of the people who worked there and I just told
7 her I'll be back. So I came back an hour or two
8 later and at that point she still had not
9 returned. So I left a message with, you know, the
10 employee there and then I left.
11 I mean, I came back again I believe
12 around like 4 and she wasn't there. So after that
13 I, um, that's it. I believe I e-mailed her at
14 that time. I e-mailed her the presentation at
15 that time.
16 Q. When you say you left, you left to go
17 where?
18 A. Nowhere, just back to the residents'
19 office space or work area.
20 Q. And you said you sent an e-mail. So
21 let me show you a document.
22 MR. McEVoy: Mark as Exhibit 28.
23 (Defendants' Exhibit 28, e-mail from
24 Leena Varughese to Vesta Najfeld dated
25 August 8, 2011, Bates No. D-882, marked for

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1 Varughese
2 identification, this date.)
3 Q. Have you had a chance to look at that?
4 A. Yes.
5 Q. Is this the e-mail that you sent to
6 Dr. Najfeld on August 8th?
7 A. Right.
8 Q. At 4:18 p.m., correct?
9 A. Correct.
10 Q. It says: "Dr. Najfeld, I am including
11 a CML presentation for CP case conference."
12 A. I think we can read.
13 Q. Good, I'm glad you can read.
14 "It is pretty much complete but I will
15 have to polish it up a bit before tomorrow
16 morning. Please let me know if you want to change
17 anything in any major way. Thank you."
18 Did you mention in this e-mail that
19 you had tried to see Dr. Najfeld on several
20 occasions that afternoon?
21 A. No, I did not mention that.
22 Q. What time was the presentation
23 scheduled for the next day?
24 A. 9 a.m.
25 Q. And did you think that sending

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1 Varughese
2 Dr. Najfeld the presentation at 4:18 on August 8th
3 gave her sufficient time to review it and to give
4 comments to you to make it by 9 o'clock the next
5 morning?
6 A. Well, the only reason I'm even sending
7 this to her is because she requested that I do so.
8 There's numerous occasions where I do write up a
9 presentation. It's not reviewed by the attending
10 pathologist.
11 So, I mean, Dr. Najfeld wanted to see
12 this presentation, so I sent it to her, and I felt
13 that perhaps if there's anything that needs to be
14 polished up she would give me some sort of advice
15 on it.
16 And from the time I made this
17 presentation to, you know, what was submitted to
18 her to what I presented, it was not changed in any
19 major significant -- The content was not changed
20 in any significant manner.
21 Q. When did Dr. Najfeld tell you that she
22 wanted to see it before you gave the presentation?
23 A. She didn't give me a specific time.
24 Q. Not when she told you that she wanted
25 you. When did she first say to you,

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1 Varughese
2 Dr. Varughese, I want to see this presentation?
3 A. I don't remember when she said that.
4 Q. Now, you sent this e-mail to
5 Dr. Najfeld at 4:18 p.m., correct?
6 A. Correct.
7 Q. Where were you when you sent this
8 e-mail?
9 A. Where was I? I was -- I'm not sure
10 where I was.
11 Q. Were you in the hospital?
12 A. Probably, yes. I mean, I would have
13 to attach my presentation and then send it, so I
14 would have to be at a computer terminal.
15 Q. Let me show you another document.
16 MR. McEVROY: Mark this as Exhibit 29.
17 (Defendants' Exhibit 29, e-mail from
18 Dr. Najfeld to Dr. Varughese dated August 8,
19 2011, Bates No. D-883, marked for
20 identification, this date.)
21 Q. Have you had a chance to look at that?
22 A. Yes.
23 Q. This is an e-mail from Dr. Najfeld to
24 you which says, "Can you come over now?"
25 A. Right.

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1 Varughese
2 Q. And did you come over now?
3 A. No, I didn't.
4 Q. Why not?
5 A. Because I didn't get this e-mail.
6 Q. Why didn't you get it?
7 A. Why? Because I logged out of my
8 computer, that's why.
9 Q. So you sent this e-mail at 4:18.
10 A. Right, and I logged out within the
11 next five minutes. That's not a crime.
12 Q. I didn't say it was. But as you
13 correctly point out, Dr. Najfeld sent you a
14 response five minutes later at 4:23.
15 A. Well, I eventually noted that she did.
16 Q. So why did you log out of your
17 computer when you sent her the presentation?
18 A. Why would I not log out of my
19 computer?
20 Q. I don't know. You tell me.
21 A. What are you suggesting here? I'm
22 sorry. I fail to see a big plan of --
23 Q. I'm not suggesting anything.
24 MR. WRONKO: Form objection. Just
25 listen to his question and answer his

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1 Varughese
2 question.
3 Q. Why did you log out of your computer
4 after you sent the presentation to Dr. Najfeld?
5 A. I logged out of my e-mail most likely
6 because I had sent the e-mail and I was probably
7 doing something else.
8 Q. In the e-mail that you sent to
9 Dr. Najfeld at 4:18 when you say "Please let me
10 know if you want me to change anything in any
11 major way," how did you expect Dr. Najfeld to get
12 in touch with you if she had suggestions or wanted
13 to make changes if you logged out of your e-mail
14 as soon as you sent it?
15 A. Right, she could have just sent me an
16 e-mail, like a letter.
17 Q. But you wouldn't have gotten it,
18 Dr. Varughese, because you just told me you logged
19 out of your e-mail account.
20 A. Right, she could have just said, Oh, I
21 want you to change X, Y and Z. She didn't do
22 that. She didn't make any effort here. She just
23 said, "Can you come over now?"
24 Q. No, no, Dr. Varughese. You said to
25 me, you said in your e-mail, "Please let me know

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1 Varughese
2 if you want me to change anything in any major
3 way," correct?
4 A. Right. She didn't say that in this
5 e-mail. She doesn't say come over now.
6 MR. WRONKO: Hold on. You've got to
7 let him ask the question.
8 Q. And the presentation is 9 o'clock
9 tomorrow morning, right? It's 9 o'clock the next
10 morning, right?
11 A. Yes, the presentation is at 9 a.m.
12 Q. So regardless of what she said in the
13 e-mail you never got or didn't get at the time,
14 how did you expect Dr. Najfeld to get in touch
15 with you if you logged out of your e-mail account
16 as soon as you sent the e-mail at 4:18?
17 MR. WRONKO: Form objection. You can
18 answer.
19 A. I'm sorry, this is beyond ridiculous.
20 OK, let me tell you something.
21 Q. Dr. Varughese, could you do me a
22 favor. Editorial comments are not appropriate at
23 the deposition. I ask the questions; you answer
24 the questions. Your lawyer gives you whatever
25 direction you want.

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Varughese

My question is, how did you expect Dr. Najfeld to get in touch with you in response to your e-mail if you logged out of your e-mail account?

A. Like she got in touch with me later, by calling me and sending me a page.

Q. So she could have called --

A. Which she has alternative methods of contacting me.

Q. I show you another document.

MR. McEVROY: Mark this as Exhibit 30.

(Defendants' Exhibit 30, e-mail dated August 8, 2011, from Dr. Najfeld to Dr. Varughese, Bates No. D-884, marked for identification, this date.)

Q. You can take a look at it.

A. OK.

Q. Have you had a chance to look at that?

A. Yes.

Q. This is an e-mail from Dr. Najfeld to you at 4:28 p.m. on August 8th, which is five minutes after the one we just looked at.

It says: "There are some major problems with your presentation. Please come over

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Varughese

asap."

Did you get this e-mail?

A. Eventually I did, yes.

Q. Did you get it --

A. At 4:28 p.m.? No.

Q. Is that because you had logged out of your system?

A. Yes.

Q. Were you still in the hospital at 4:28?

A. I believe that I was, yes.

Q. I show you another document.

MR. McEVROY: Mark this as Exhibit 31.

(Defendants' Exhibit 31, e-mail dated August 8, 2011, from Dr. Najfeld to Dr. Varughese, Bates No. D-885, marked for identification, this date.)

Q. Have you had a chance to look at it?

A. Yes.

Q. And this is an e-mail from Dr. Najfeld to you, also dated Monday, August 8, 2011, at 4:49 p.m. which is 21 minutes after the one we just looked at that says, "Please call me. This presentation cannot go as is."

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Varughese

A. Yes.

Q. Did you get this e-mail on or around 4:49 p.m.

A. No, I believe I got this e-mail much later. I think I didn't get any of these e-mails till like 6 p.m.

Q. Why did you get them at 6 p.m.?

A. Because I probably logged into my computer and into the e-mail account.

Q. So why would you log out at 4:18 or thereabouts and log back in at 6 p.m.?

A. Because I was working on something else after I sent the e-mail and I didn't get any pages or calls and then I went home at like 4 -- I probably started walking to the train like around five. So I was underground after that for like --

Q. Did you think it likely,

Dr. Varughese, if you e-mailed Dr. Najfeld that she would respond by e-mail?

A. I wasn't sure if she would or not.

Q. Did you think that since you weren't sure whether she should or not, you should have not logged out of your e-mail account so you would get an e-mail if she sent you one?

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Varughese

MR. WRONKO: Form objection. You can answer.

A. No. I mean, if I'm just going to not log out of computer system, you know, paralyzed to my desk because I expect somebody to e-mail me, that's ridiculous. I cannot do my work. That's imposing undue requirements on me that's not imposed on everybody else there. There were people who were not even at the hospital.

Q. And part of your work that day was to prepare a presentation for the next morning, correct?

MR. WRONKO: Form objection.

A. No, it wasn't part of my work that day. No.

Q. I show you another e-mail, another document.

MR. McEVROY: Mark this as Exhibit 32.

(Defendants' Exhibit 32, e-mail dated August 8, 2011, from Dr. Najfeld to Dr. Varughese, Bates No. D-886, marked for identification, this date.)

Q. Have you had a chance to look at that?

A. Right. So --

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Varughese

Q. Let's identify what it is first. It's another e-mail from Dr. Najfeld to you, again on August 8th, this one at 5:42 p.m., a little less than an hour after the one we just looked at.

And I don't want to characterize the e-mail, but suffice it to say that Dr. Najfeld now says that this presentation is not ready for tomorrow, correct?

A. She doesn't make that statement until this e-mail, right?

Q. Sure.

A. She actually makes that statement before. But then she actually explains herself, which she did not explain at 4:23 p.m., which is shocking to me. I mean, if you really thought that from the git-go, why didn't you just say, you know, these are my concerns.

Q. Maybe because she thought you would call her back or e-mail her.

A. I can't read her mind.

Q. And I can't read hers either.

MR. WRONKO: Now everybody is making editorial remarks. Let's see if we can keep it question/answer.

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Varughese

MR. McEVOY: I agree with you.

Q. "Leena, the presentation I received at 4pm today by e mail is not really ready for tomorrow.

"You were supposed to take the patients' images on Friday from my staff and you had the whole day today and never came to take the images. The reason we present cases is for educational purpose and the patient's images are presented as a part of this learning experience.

"If I was not here at 3 p.m. when you stopped by, you should have write me a note and I would have called you the moment I came in. Meanwhile I left since 4:18 pm a number of e mails and messages only to find that you left at 5pm and would not return to Sinai to work with me on this presentation. I was willing to work with you until 6 p.m.

"I think a lot more work needs to go into this presentation and let's try for the next week."

Dr. Najfeld says in there that she sent you a number of e-mails which she looked at and messages which suggests that she attempted to

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Varughese

communicate with you in some way other than e-mail.

To your knowledge did she attempt to communicate with you by page or phone call or some method other than e-mail? And we're talking about this time period, between 4 and 5 p.m. on August 8th.

A. Well, I called her at like 5:40 or 5:45 p.m. As soon as I got her e-mails I called her.

Q. I understand that. But she says here, I left you "a number of e-mails and messages."

A. I didn't get any messages. I think she is referring to the e-mails, and she doesn't say that she paged me either. She didn't page. I don't think she paged me.

Q. You said when you finally got finally these e-mails. You said around 6 o'clock you got them; is that right?

A. Like 5:40, 5:45, that's when I saw these e-mails.

Q. And so this e-mail that we're looking at, the one that's dated August 8 th, 5:42 p.m., you saw this one at around 5:45 as well as the others that we've looked at?

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Varughese

A. I may have gotten other e-mails first and I called her and I think she sent me this e-mail after I spoke to her.

Q. It certainly doesn't appear that way from the face of the document. So do you know whether you received this e-mail, and by this e-mail, I mean the one dated August 8th, 5:42 p.m., do you know whether you got this e-mail before or after you spoke to Dr. Najfeld?

A. I think it may not have been -- I think I got this e-mail after I spoke to her.

Q. And when you spoke to her, you called her?

A. Right, I called her office like the number that's right here, 241-8801. So I called that number and I spoke to her. I said, you know, what the problem is with them.

Q. And what did she tell you?

A. With the presentation she said, Oh, it's not the patient -- I mean, she said it's not ready. You know, you're discussing the patient.

I think she had a problem with the way I structured the presentation. She wanted me to discuss either the background information or --

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Varughese

1 oh, no, she wanted me to discuss the patient
2 first, then discuss the diagnosis. I went into
3 the background information about CML and the
4 presenting diagnosis to sort of kind of present it
5 as sort of, well, could this really be CML kind of
6 thing. That was my stylistic preference. She
7 didn't like that. That's what she said to me.
8 **Q.** Did she also talk to you about what
9 she says in the e-mail, that "you were supposed to
10 take the patient images on Friday from my staff
11 and you had the whole day today and never came to
12 take the images"?

13 **A.** Did I talk to? I don't know if I --
14 when I was on the phone with her I had that
15 discussion with her. But for all intents and
16 purpose I knew the case and I knew the patient's
17 cytogenetics finding and I used a comparable image
18 because I did not have access to the computers
19 that they utilized for cytogenetics. Because
20 that's like a different system and I don't have a
21 password to sign in for that system.

22 And the technician that I worked with
23 she left. She went on vacation on Thursday or
24 something. Wednesday or Thursday she went on

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Varughese

1 vacation. So I had worked on this case prior to
2 that. I didn't have an image of the cytogenetics
3 findings. So I just used a comparable image.

4 **Q.** It says, "You were supposed to take to
5 take the patient images on Friday from my staff
6 and you had the whole day today and you never came
7 to take the images."

8 So is what you just told me the reason
9 why you didn't take the images?

10 **A.** What?

11 **Q.** It says, the first sentence of the
12 second paragraph, "You were supposed to take the
13 patient's image on Friday from my staff and you
14 had the whole day today" --

15 **A.** Oh, that's not true. She wouldn't
16 know about that because she wasn't there that day.
17 So I don't know why she is making these assertions
18 when she wasn't even at work on Friday.

19 **Q.** So she's wrong when she says that.

20 **A.** Right, she wasn't at work on Friday.

21 **Q.** When Dr. Najfeld told you that the
22 presentation needed to be changed in the way you
23 just described, did you agree with Dr. Najfeld or
24 not?

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Varughese

1 **A.** Well, if she wanted me to present it
2 that way that was fine with me. I agreed to
3 change it immediately. It's not a problem for me.

4 **Q.** Did Dr. Najfeld when you spoke to her
5 tell you that she was willing to stay late and ask
6 you to come back to the hospital to work on the
7 presentation?

8 **A.** Right, she gave me an ultimatum that I
9 had to get there before 6 p.m. and I told her
10 there's no way I can come back to New York City,
11 Upper East Side, in 20 minutes from downtown
12 Brooklyn. It's impossible.

13 **Q.** And you were living in downtown
14 Brooklyn at the time?

15 **A.** Right. And not only that, my coworker
16 also did a presentation on CML the following week.
17 He did the histology aspect because he was also
18 working on the same case. I was working on the
19 cytogenetics component and he was working on just
20 the histology, which is regular, you know,
21 histology stuff.

22 So he also presented the following
23 week and it was a team effort really. It was an
24 effort between, you know, that involved me and my

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Varughese

1 co-resident.

2 **Q.** Was the presentation that was
3 scheduled for August 9th cancelled?

4 **A.** Correct.

5 **Q.** By you. Your presentation.

6 **A.** My presentation was cancelled and
7 apparently my co-resident did not have to cancel
8 or anything, but it was understood that his
9 presentation was cancelled without him doing
10 anything.

11 **Q.** Did Dr. Najfeld tell you to let the
12 people who were going to attend the meeting to
13 know that the presentation was cancelled?

14 **A.** Right, she did.

15 **Q.** I show you a document.

16 **MR. McEVOY:** Mark this as Exhibit 33.
17 (Defendants' Exhibit 33, e-mail dated
18 August 9, 2011, from Dr. Najfeld to
19 Dr. Varughese, Bates No. D-890, marked for
20 identification, this date.)

21 **Q.** Did you have a chance to look at that,
22 Dr. Varughese?

23 **A.** Yes.

24 **Q.** Is this the communication you were
25 **Computer Reporting NYC Inc.**
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Varughese

just referring to, the e-mail from Dr. Najfeld to you dated August 9th at 6:21 a.m.? It says, "Please send an e mail that the conference will not be held."

A. Yes.

Q. You got this e-mail?

A. Yes, I got that like when I was in conference.

Q. And what did you understand Dr. Najfeld wanted you to do?

A. Right, so this is all she said. So I e-mailed her back and I said, Of course, I'm not going to hold the presentation anymore as per discussion yesterday.

Q. Did you understand that either from this e-mail or from your conversation with Dr. Najfeld that she wanted you to tell the people who were attending the conference that it was being cancelled?

A. Well, you know, I didn't make that connection at that time. So I just thought she wanted me to just confirm with her that I won't be presenting.

And then the other thing is, on

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Varughese

Tuesdays at 9 a.m. when they have these CP call or follow-up conferences, there are multiple conferences. These are very informal events. It's not e-mail everyone, let them know what the presentation is, what the topic is. It's a very informal event where people bring questions or have questions or discuss any issues that came up in CP or is there anything interesting that happened that week in clinical pathology.

So it's a time for people to bring all sorts of relevant issues to the table. This is not about just making a presentation. So aside from my presentation there could have been other presentations that week. Like the following week I presented, you know, cytogenetics on CML with a co-resident who also presented histology on CML.

Q. When Dr. Najfeld spoke to you by phone and when you received the e-mail at 5:42 that basically said in her view this presentation couldn't be made tomorrow, right?

MR. WRONKO: You're referring to Defendant's Exhibit 32.

MR. McEVOY: I am.

Q. Did you have any doubt that

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Dr. Najfeld knew that this presentation wasn't going to take place tomorrow?

MR. WRONKO: Form objection. You can answer.

A. She said it needs a lot more work.

Q. And "let's try for next week."

A. Yes.

Q. So you knew that she knew that she didn't want you to present this tomorrow.

A. Right. Well, that didn't stop me from working on my presentation.

Q. I didn't say it did. And then she sends you an e-mail the next morning. It says, "Please send an e mail that the conference will not be held."

Given the conversation you had with her and the e-mail you got from her the previous day, you really thought that the response to this was to tell her that you knew that the thing wasn't going to be presented? Is that how you interpreted her e-mail?

MR. WRONKO: Hold on. Form objection. I think you're arguing with the witness.

MR. McEVOY: No.

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MR. WRONKO: She already asked and answered that.

MR. McEVOY: I am asking her whether, now having looked at the e-mail at 5:42 and what it says, that her interpretation of the e-mail on August 9th at 6:21 a.m. from Dr. Najfeld was to confirm with Dr. Najfeld that you weren't going to present. That's all I want to know.

MR. WRONKO: Form objection. You're asking whether or not today she has a different viewpoint on it?

MR. McEVOY: No, what she thought when she got this e-mail on August 9th. I am not really interested in what she thinks today.

MR. WRONKO: Form objection.

A. Initially I thought she just wanted me to confirm that I won't be presenting.

Q. Confirm to who?

A. Confirm to her. Because I wasn't sure there would be other conferences that morning either.

Q. Let me show you another document.

MR. McEVOY: Mark this as Exhibit 34.

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1 Varughese
2 (Defendants' Exhibit 34, e-mail dated
3 August 9, 2011, from Dr. Varughese to
4 Dr. Najfeld, Bates No. D-891, marked for
5 identification, this date.)

6 Q. Have you had a chance to look at that?

7 A. Yes.

8 Q. Is this the e-mail you sent in
9 response to the e-mail from Dr. Najfeld that you
10 received at 6:21 on August 9th?

11 A. Right. I think I -- I don't know, it
12 says, you know, her name and information, but
13 yeah, "I won't be doing the cytogenetics
14 presentation until next week."

15 Q. It's an e-mail from you to her dated
16 August 9th at 829 a.m. It says, "I won't be doing
17 the cytogenetics presentation until next week."

18 A. Right.

19 Q. And did you notify anybody else other
20 than Dr. Najfeld that you wouldn't be doing the
21 presentation on August 9th?

22 A. No. I just informed her, confirmed
23 that I won't be doing the cytogenetics
24 presentation until the following week.

25 Q. Let me show you another document.

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1 Varughese
2 MR. McEVoy: Mark this as Exhibit 35.
3 (Defendants' Exhibit 35, e-mail dated
4 August 9, 2011, from Dr. Najfeld to
5 Dr. Varughese, Bates No. D-892, marked for
6 identification, this date.)

7 Q. Have you had a chance to look at that?

8 A. Yes.

9 Q. Did you receive this e-mail from
10 Dr. Najfeld?

11 A. Yes.

12 Q. Did you send your presentation or the
13 revised presentation to her the next day on
14 August 10th as she had requested?

15 A. Actually I met with her Tuesday
16 afternoon and I went over my presentation and we
17 agreed on how it should be presented. So she was
18 aware of my, she knew exactly what was my
19 presentation at that time.

20 Q. When you met with her and you
21 discussed it with her, she approved the
22 presentation?

23 A. Yes.

24 Q. And did you notify faculty and chief
25 residents as well as the educational director of

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1 Varughese

2 your upcoming presentation next week?

3 A. Yes. I mean, I don't know if the same
4 requirements were placed on Jonathan Chow. He did
5 a presentation as well that week. I don't know
6 exactly what requirements were placed on him to
7 inform, and so on. I don't think any of those
8 requirements were placed on him.

9 Q. Do you know what, if any, requirements
10 were placed on him?

11 A. No, he was just allowed to come in
12 with the presentation that he wanted and present
13 whatever he wanted.

14 Q. During the tumor cytogenetics rotation
15 with Dr. Najfeld, was she critical of your time in
16 attendance?

17 A. She wasn't very critical of my time in
18 attendance, no. But she did berate me in front of
19 her employees or the employees of the hospital and
20 they thought she was being extremely aggressive
21 and unprofessional towards me.

22 Q. When did she berate you?

23 A. She berated me several times over the
24 second week. The first week she was very benign.
25 She didn't have much to say to me. She was

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1 Varughese

2 working on some equipment and what not.

3 Then she got an e-mail from Firpo
4 about cytogenetics requirements and what she has
5 to do. Then after that she became very, um, she
6 started having a different attitude towards me.
7 Started becoming very aggressive, very mean,
8 berating me wherever she saw an opportunity, just
9 being frankly unprofessional despite the fact that
10 I am a licensed medical doctor in New York and she
11 should really watch how she speaks to me. But she
12 would have none of that.

13 Q. You say she received an e-mail from
14 Dr. Firpo.

15 A. Yes.

16 Q. When did she receive an e-mail from
17 Dr. Firpo?

18 A. I believe it was Thursday.

19 Q. How do you know she received an e-mail
20 from Dr. Firpo?

21 A. Because she told me and I think I was
22 cc'd on some e-mails.

23 Q. What did the e-mail that she told you
24 about or that you saw say?

25 A. It just said that she was to meet with

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Varughese

me and discuss the requirements of cytogenetics.

Q. Anything else that he said?

A. That's all I can recall right now.

Q. Did you attribute some negative or sinister motive to Dr. Firpo sending that to you?

MR. WRONKO: Form objection. You can answer.

A. Yes.

Q. How did you interpret Dr. Firpo's motive in sending that e-mail, why he sent it?

A. I think it plays to her on some, you know, on some notice about what her duties are and I felt -- I think that after that she didn't -- I don't think anybody likes being scrutinized and perhaps she thought that she was being scrutinized by the hospital or this new person that they hired and she started taking it out on me.

Q. So --

A. I mean, I personally don't have a problem with him sending e-mails to Dr. Najfeld or even to me. I personally don't mind. If he wanted to send me an e-mail saying these are the requirements, these are what we expect you to learn every month or every time I start a new

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Varughese

rotation, I personally don't find anything wrong with that.

Q. So you think that Dr. Firpo sent this e-mail to Dr. Najfeld. She may have thought that he was somehow scrutinizing what she was doing.

A. Right. Because she seemed surprised by it and she didn't seem to appreciate this management of her duties, her responsibilities.

Q. Did she say something about that to you?

A. Yeah, she just mentioned that she was being asked to do something.

Q. Did she say that she was offended by it, that she didn't like it?

A. Here's someone who's worked at that institution whatever time she said she worked there and perhaps she's never had to deal with this before, she never had to deal with somebody who started telling her how to do her job.

Q. Do you know that for a fact or is this just kind of like your supposition about how you think she would react having been at Mount Sinai for 30 years?

A. Well, every time I was in a rotation

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my supervisors felt that they were being intimidated by the hospital's administration in one form or another. To say negative things about me, derogatory things about me, saying that I have to meet X requirements, they said, you know what? We don't have to do this with anybody else, any other resident. They're not on a checklist of saying, Oh, X is met, Y is met, Z is met. This just doesn't happen in the residency training program.

This is a program where most of the residents failed their board exams for multiple years running. Nobody is scrutinizing the residents to see if they are meeting any requirements. But they are putting this requirement, these undue, you know, requirements on me that they are not placing on anybody else, whether it's like, you know, asking me to always e-mail everybody else when it's quite possible there could have been five other presentations at 9 in the morning.

Q. A lot of things are possible. What I want to know is what you know.

A. That's what I know.

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Varughese

Q. That's what you think you know.

A. No, that's what I was told.

Q. So let's go back to Dr. Firpo. Was there anything in Dr. Firpo's e-mail that had anything to do with you specifically?

A. I'm sorry, what e-mail are you talking about now?

Q. The one you're talking about, the one that Dr. Firpo sent to Dr. Najfeld telling her about what she needed to do in terms of the rotation. Did it refer to you specifically?

A. Right, because I was the person who was on cytogenetics.

Q. Did the e-mail refer to you specifically? Do you know whether it referred to you specifically?

A. Well, I was cc'd on the e-mail. I don't know if any other resident was cc'd on that e-mail. So it refers to me specifically.

Q. So you said Dr. Najfeld berated you in front of other employees during the second week of the rotation.

A. Right.

Q. When was the first time she berated

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1 Varughese
2 you?
3 A. Well, she -- well, you know, when I
4 went to meet with her on Monday or Tuesday for the
5 presentation. Monday I met with her in the
6 afternoon. She just went on this long, you know,
7 she seemed like she was upset and she was saying a
8 number of derogatory things to me.

9 Q. Like what?

10 A. What did she say at that point? She
11 just said -- actually, I don't remember. I would
12 have to like jog my memory. It was so long ago.
13 It was like two years ago.

14 Q. I understand. So what else did
15 Dr. Najfeld do on, I think you said, Monday or
16 Tuesday that you interpreted as being berating?

17 A. Right. And she was sort of, um, she
18 was placing all these requirements on me now
19 because she felt that's what she had to do it
20 seems, and she was saying this presentation --
21 even with the presentation it's like so terrible.
22 I mean, it wasn't that terrible. It just needed
23 to be reordered a little bit and that's it. It
24 took me maybe half an hour to change the
25 presentation and I got the patient's cytogenetics

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1 Varughese
2 image from one of the technicians who worked
3 there. He just simply e-mailed the image. There
4 was no, you know, it wasn't like a difficult
5 situation here.

6 But the response was just, you know,
7 exaggerated to the point where it's like you
8 didn't do this, you didn't do that or everything
9 is wrong here.

10 Then she would yell at me in front of
11 the other technicians even though I'm the licensed
12 doctor there, not her. She would literally shout
13 at me at the top of her lungs in this environment
14 and it was disturbing and she was like making fun
15 of me. And there were people there and they would
16 like, What did you do to her? What did you do to
17 her for her to like treat you like this when
18 you're in this lab? They never saw her treat
19 anybody else like that.

20 Q. Is it possible, I mean, can you
21 contemplate the possibility that the reason
22 Dr. Najfeld was angry with you or berated you,
23 if that's what she did, on Monday or Tuesday
24 August 8th or 9th is because she was genuinely
25 displeased with your performance regarding the

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1 Varughese

2 presentation?

3 MR. WRONKO: Form objection. You can
4 answer.

5 A. Was she displeased?

6 Q. Yes.

7 A. I mean, to be displeased with the
8 presentation is one thing, but to berate me in
9 front of her, you know, the employees at the
10 hospital, no. I don't think that's why. I think
11 she was berating me because she was being managed
12 by some new hire who probably doesn't know
13 anything about cytogenetics. She feels like she's
14 an expert. She has been doing this thirty years.
15 She didn't like it and she was taking it out on me
16 because I was there.

17 This is what they do to all my
18 supervisors. Every time I'm on a rotation they go
19 to them tell them they had to say derogatory
20 things about me, find a way to say something
21 negative about me. That's what I heard. This is
22 what people have told me.

23 Q. So you are the victim of this giant
24 conspiracy.

25 MR. WRONKO: Form objection.
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1 Varughese

2 Q. Do you believe that you were the
3 victim of a conspiracy by the management at Mount
4 Sinai to influence everybody who supervised you on
5 every rotation to say and do negative things
6 towards you?

7 MR. WRONKO: Form objection.

8 A. You're saying it's a conspiracy and
9 you mentioned this previously as well. And, you
10 know, I did not believe it, but I do believe that
11 now. I do believe that it's true. I believe that
12 the management was trying to influence my
13 supervisors to say derogatory things about me to
14 insert, you know, things into the record to make
15 me look a certain way, to paint an image of me as
16 being unprofessional or having interpersonal
17 communications skills or patient care related
18 lapse, whatever. Everything they would find they
19 would try to put in there. I have no doubt about
20 it.

21 (A recess was taken.)

22 BY MR. McEVOY:

23 Q. Dr. Varughese, when Dr. Najfeld, to
24 use your word, berated you on August 8th or 9th
25 about the presentation, was that in front of other

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Varughese

people?

A. Well, it wasn't the 8th because that was the date that they sent me those e-mails. It was probably the 9th or the 10th.

Q. All right, on the 9th or the 10th.

A. It wasn't in front of -- yeah, there were other people there.

Q. Who else was there?

A. The technicians.

Q. Did the technicians have names?

A. I don't really remember all their names now. I just remember several of the people I worked with. There was Tara, Maria, Izza and a few other people who I would know.

Q. After this incident on the 9th or the 10th did Dr. Najfeld berate you on any other occasions during the rotation?

A. Well, she sought opportunity to berate me I feel like.

Q. I'm not sure what that answer means. Did berate you?

A. Yes, she did.

Q. When?

A. When did she? Well, she wanted me to,
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Varughese

what was it? On Friday I came into work and I was -- I was expecting that I would have to like have some sort of exit interview with her, and so I was basically reading up just to, you know, going through the points that were the requirements for cytogenetics and just sort of getting a sense of like what could she ask me, because it was an incident review. And so when I arrived she was just, you know, she was up in arms about some e-mails and....

Q. What e-mails?

A. Apparently some e-mails she had gotten from Pat Lento and Adrienne Jordan.

Q. About what?

A. About coverage, coverage for a resident who was out sick that day.

Q. So Dr. Varughese, on the last day of your rotation you didn't work in the cytogenetics area that afternoon because you were asked to cover in another area for a sick resident; isn't that right?

A. Well, I was expected to report to work in cytogenetics.

Q. And you did that, right?

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Varughese

A. Right, I did that. And then I left cytogenetics at noon and I went to cover for the resident.

Q. And is that what you believe

Dr. Najfeld was upset because Dr. Lento and Dr. Jordan had communicated with her about the need for you to leave the cytogenetics lab and go cover for this resident?

A. No, I think she was being called by Pat Lento about something. And I think she was told that I didn't do something or I think she was informed that I had done something or -- so when I got there she, you know, I spoke to her for a minute and asked her what I needed to do.

She wanted me to complete some cytogenetics, you know, karyotyping, which is something I normally don't do, because as a medical doctor you don't do that kind of work. It is more technician-type work. I mean, I just needed to learn how to interpret the findings, not necessarily arrange the chromosomes according to their size from one to 23. So, you know, I knew how to do it, so I did it.

While I'm having this conversation
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Varughese

with her about the importance of cytogenetics and trying to like explain to her what I had learned and what my readings were, she was getting phone calls and then Pat Lento calls and he is like, Oh, I need to talk to Leena right away. As if there's some fire to put out.

I picked up the phone and said, What's going on? And he said, Well, aren't you covering for some resident who was out sick today? I said, Of course I am. I was informed that I'm to cover. So I am covering.

There's no discussion on it because I had a discussion on this issue just the week prior.

Q. So we'll get to the coverage issue. My question is, to get back to where you started, was that Dr. Najfeld was upset the last day that you were on that rotation because you were, because she got phone calls or communications from Lento and Jordan, right?

A. The last day yes, she was getting bombarded with e-mails and phone calls.

Q. Leaving aside bombarded, to your understanding was the subject matter of those

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1 Varughese
 2 communications the need for you to leave the
 3 cytogenetics lab and cover?
 4 A. Right.
 5 Q. So did you ever have an exit
 6 interview?
 7 A. Well, I spoke to her for about an hour
 8 or two hours.
 9 Q. When was that?
 10 A. That Friday.
 11 Q. Friday morning.
 12 A. Right. So I assumed that was the exit
 13 interview, but she said that I did not have an
 14 exit interview with Dr. Najfeld.
 15 Q. So were there any other occasions on
 16 which Dr. Najfeld berated you during this
 17 cytogenetics rotation?
 18 A. Right, she berated me like on
 19 Wednesday. She started shouting at me about
 20 something. I don't remember what. It was pretty
 21 disturbing. I just -- I was willing to, you know,
 22 I was shocked, but I just thought, you know, I
 23 don't know what's going on. Maybe that's how she
 24 is, maybe that's her personality or something.
 25 Then the technicians who work there

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1 Varughese
 2 approached me and said, Well, this is definitely
 3 not normal. I have never seen her be so
 4 disrespectful towards a resident when they're
 5 here. It seems like they felt like she was going
 6 out of her way to berate me and antagonize me.
 7 Q. Did you show up late for work during
 8 that rotation?
 9 A. No.
 10 Q. Did you leave early during that
 11 rotation?
 12 A. There's no leaving early in
 13 cytogenetics.
 14 Q. Well --
 15 A. I had to find a technician that I can
 16 work with and tag along.
 17 Q. Was there a normal quitting time?
 18 A. For cytogenetics? No.
 19 Q. So when did you know it's time to go
 20 home?
 21 A. Well, I usually work with the
 22 technicians and we discuss like what they are
 23 going to do, what their work is going to be for
 24 the day and I usually just observe whatever
 25 procedures or techniques that they are doing and

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1 Varughese
 2 the results that they get and I just discuss, you
 3 know, troubleshooting or laboratory techniques.
 4 They usually have some questions for me about what
 5 it means and I'll look up some information for
 6 them.
 7 That's about it. That's the nature of
 8 the work. There's no quitting time. There's no
 9 coming early or leaving early. It's whose
 10 available.
 11 Q. So it's your understanding there are
 12 no regular hours that you were supposed to be in
 13 the cytogenetics lab during that rotation.
 14 A. Well, I was there when the technicians
 15 were available.
 16 Q. I understand that. My question is --
 17 you were just explaining that to me and understood
 18 what you said.
 19 Dr. Najfeld as I think you may recall
 20 said that you came in late and left early. That
 21 implies that there was a time you were supposed to
 22 be there --
 23 A. No.
 24 Q. -- and a time you were supposed to
 25 leave, and you say that's not correct.

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1 Varughese
 2 A. That's not correct.
 3 Q. OK. During the rotation, OK? did you
 4 take off the 5th and the 8th to prepare the
 5 clinical presentation?
 6 A. No, I did not take off the 5th and the
 7 8th. Like I mentioned before, on the 5th she was
 8 not at work. So I don't know. She's making these
 9 assertions from wherever she is. So I don't know
 10 what she's talking about.
 11 On the 8th I was there. That's the
 12 Monday. We had like these e-mails back and forth.
 13 Q. Specifically, did you take off doing
 14 bench work to prepare --
 15 A. No, I didn't. I talked to some the
 16 technicians there. We went over a few things
 17 about their new equipment. And I had already
 18 reviewed the standard operating protocols for all
 19 their tissue and everything. I mean, this is not
 20 like rocket science for me. I look at it, I get
 21 it and move on with my life.
 22 There's so many other things I need to
 23 learn about cytogenetics that's not available in
 24 that particular laboratory. I had to go to the
 25 library. I had to go to my desk. I had to access

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the required information about cytogenetics. It's not available in that laboratory.

Q. So did you think that rotation was a waste of your time?

A. No, I don't think it was a waste of my time. I enjoyed cytogenetics. I enjoyed my two weeks. I did not know about this evaluation that you're looking at. I'm sure you will present it to me at some point. But I did not know about this evaluation until the house staff affairs hearing. Nobody informed me that this was the evaluation that was submitted.

Q. Did you call in sick on August 11th?

A. Yes, I did.

Q. Did there come a time when Dr. Najfeld asked you to stop using your BlackBerry during tutorials?

A. Right. I don't have a BlackBerry.

Q. Was there some other device you were using?

A. Right, I did have a phone, a smart phone.

Q. So did there come a time when Dr. Najfeld asked you to stop using your smart

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Varughese

phone during the tutorial?

A. Right, she did, because I was taking notes. She wanted me to look up certain cytogenetic rearrangements. She was being very specific and picky about the tumor rearrangements and such, which, you know, takes some time to memorize and learn about. So I was taking notes to remind myself that this is what I needed to know.

Q. And then did she tell you to stop using the smart phone?

A. Right, she wanted me to stop using it. She just wanted me to listen to her.

Q. And did you stop using it?

A. Right, I did.

Q. And did you start using it again despite being told not to use it?

A. I may have tried to use it again on a different day to take some notes, but not to, you know, not to specifically spite her or whatever she thinks that I was doing.

Q. Did the technologist also tell you that you shouldn't use the smart phone --

A. No, not at all. I did not have any

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Varughese

such discussion with any technologist. They are all young, they all have their own smart phones too.

Q. Did Dr. Najfeld ever tell you, and I'm not talking about what she said at the medical staff hearing or what you learned later, but during the rotation between August 1st and probably closer to August 12th did Dr. Najfeld ever tell you what her overall assessment of your performance during the rotation was?

A. No.

Q. Was there a policy, Dr. Varughese, about coverage for residents who are out sick or otherwise unavailable?

A. Yes, there is a policy.

Q. What is your understanding of that policy?

A. It's just some --

MR. WRONKO: Form objection. You can answer.

A. So it was some sort of revolving list, I believe, which nobody had access to except for the chief resident, I believe.

Q. And when you say a revolving list,
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Varughese

what do you mean?

A. Well, they said that we're going to take people from different rotations and I guess circulate the pool that's available to cover.

Q. Was it a list of residents so that everybody would in essence be required to cover and so that the burden wouldn't fall too heavily on some residents while others didn't cover?

A. Well, I don't know if that's really the reason for having a policy. I think it was just more to ensure that the work gets done and there's no, you know.

Q. In August, particularly August 4th of 2011, did Dr. Jordan contact you about covering the frozen section room on August 5th?

A. Yeah, she e-mailed me on August 4th, I believe.

Q. What did she tell you?

A. She wanted me to cover.

Q. She wanted you to cover what?

A. Frozen sections.

Q. Did she say why?

A. She said the resident who was on service was going to be out sick.

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Varughese

Q. Let me show you a document.
MR. McEOY: Mark this as Exhibit 36.
(Defendants' Exhibit 36, multipage
e-mail string, Bates Nos. D-896 through
D-901, marked for identification, this
date.)

Q. Have you had a chance to look at that?

A. Yes.

Q. It's an e-mail string. The first
e-mail is on page D-901 from Sarah Blowe to
Dr. Bleiweiss, Dr. Lento, D. Firpo, Dr. Jordan
dated 8/4/2011 at 4:18 p.m. The last e-mail,
which is page 896, is from Dr. Jordan to you with
copies to several folks on August 6, 2011 at
10:47, correct?

A. Yes.

Q. The first e-mail from Dr. Blowe says
she's "not feeling well and will be out sick
tomorrow."

And the second e-mail, which is from
Dr. Jordan to Dr. Morency with a number of people
copied on it, including you, "Sarah will be out
sick tomorrow. Julie and Justin were pulled today
to help out. So moving down the list of residents

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who can cover, tomorrow I need Leena to cover
frozens in the afternoon. So that I do not have
to pool another resident from their rotation, I am
asking that the attendings sign out biopsies on
their own in the morning. I want to thank
everyone (especially the attendings who will be
signing out on their own and Leena who will be
giving up her time) for their patience and
understanding."

And then you respond to that e-mail,
also on August 4th at 9:23 p.m., saying, "Sorry, I
can't cover frozen sections tomorrow afternoon."

Do you see that?

A. Yes.

Q. Why couldn't you cover frozen sections
on August 5th?

A. I just had an arm injury and I had
numbness down my arm. That's why I couldn't cover
it.

Q. And then Dr. Jordan responds on August
5th at 9:20 in the morning and it says, and I
won't read the whole thing, but it basically says
that she understands your situation, but she
expects that you will cover. Right?

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Varughese

A. Right. I don't know why she said
that, but I guess that's what she wrote.

Q. And you write back, saying a little
later that morning, 10:28 a.m., "You did not ask
me to cover because if you had, then you would
have known that I had injured my left arm.
Additionally, I have responsibilities on other
rotations that I may not be able to drop off at
the very last minute. I was courteous enough to
let you know via email last night that I could not
cover, thereby enabling you to find the adequate
amount of time to find a replacement. Please be
considerate of others time and prior commitments
before you send out an email assuming coverage.
All right, Adrienne good luck on your away
rotation."

Then Dr. Jordan e-mails back to you a
few minutes later, 10:49 a.m. on August 5th. It
says: "The new policy was in the packet of
information I put into your mailbox since you were
unable to attend the resident meeting due to
vacation."

And then it says "you would know what
the policy is," that "Liz and I," referring to

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Varughese

Dr. Morency, "are not required to 'ask' residents
to cover."

It goes on to explain the policy and
then asks you, "Does your injury preclude you from
doing frozen sections? If so, we need a note from
a doctor indicating how long you will be unable to
perform this task so that we can make alternate
arrangements for coverage today as well as an AP
call you may have. Otherwise you are expected to
comply with department policy and cover frozens
this afternoon."

So did you provide a -- well, let's
finish the e-mail string first. Then you e-mail
back, "I cannot cover frozen sections this
afternoon. If I cannot cover call next week, I
will find coverage."

And then you say about the policy and
if you didn't have the wrist/hand injury you would
be happy to oblige the request for coverage.

Then Dr. Jordan e-mails you and says,
again, talking about the policy, that was put in
the mailbox, the acknowledgment, and then you
e-mail her saying, "Why don't you email all the
residents who could possibly cover for another

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1 Varughese
2 resident calling out sick? This was what was done
3 in the past and it would be much more practical."

4 You go on to further discuss I guess
5 your view of how that coverage issue should be
6 done. And then Dr. Jordan e-mails you again on
7 August 6th, the next day, again talking about the
8 policies and how things should be done.

9 So did you cover the frozen sections
10 on August 5th?

11 A. No.

12 Q. Did you ever bring a doctor's note
13 regarding the arm injury you said you had?

14 A. No, I didn't.

15 Q. Why not?

16 A. Because I was at work and I could not
17 go out and find a doctor to examine a neuroinjury,
18 numbness. I mean, what is he going to say? I
19 believe you that you have this injury? It seems
20 outrageous.

21 I mean, the hospital policy also is
22 that if you cannot cover a call and you miss it I
23 think at the last minute or something, I think
24 you're supposed to bring in a doctor's note to
25 show that you had a good reason to miss call. But

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1 Varughese
2 for everything else it's not that specific.

3 And this new policy was not going to
4 go into effect until August 15th. It wasn't due
5 until August 15th.

6 Q. Well, was it not in effect by
7 August 15th or did you have to sign and return the
8 acknowledgement by August 15th?

9 A. Right. Well, I was on vacation again
10 for two weeks before this whole thing took place.
11 I wasn't part of any of the discussions of the new
12 policy. I wasn't at any of these residents
13 meetings for the past like three months, and
14 suddenly they have not one policy, but five or six
15 new policies in excess my contract. That is
16 just outrageous.

17 Q. So Dr. Varughese, did you think --

18 A. No, no. I didn't have any opinion
19 about it.

20 MR. WRONKO: Hold on. You have to let
21 him ask the question.

22 Q. Did you think it was outrageous for
23 the hospital to implement new policies that you
24 were required to follow?

25 A. My contract is by the board of

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1 Varughese

2 trustees. So it's one thing if the board of
3 trustees decided to implement new policy for the
4 department.

5 Q. Wait, wait, stop. I want to
6 understand. Is it your view that the only changes
7 that could be made to the policies that applied to
8 you because you had a resident's contract had to
9 be approved by the board of trustees?

10 A. Well, if I felt --

11 Q. No, no. Is that Your belief? That's
12 the answer I want. Because you just told me that
13 your contract is with the board of trustees. So
14 if they approved policies/changes it was OK.

15 I really want to know, Dr. Varughese,
16 whether you think that the only changes to
17 policies in the department of pathology that you
18 were obliged to follow pursuant to your contract
19 was ones that were improved and implemented by the
20 board of trustees of the hospital. Is that what
21 you think?

22 MR. WRONKO: Form objection.

23 A. What I think is that --

24 Q. Is that what you think, that only the
25 board --

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1 Varughese

2 A. Let me answer.

3 Q. Answer it. The answer to that
4 question Dr. Varughese, is yes you think it --

5 A. If you've going to intimidate me and
6 shout at me I cannot answer your question.

7 Q. I have not intimidated or shouted at
8 you once.

9 A. You're shouting at me right now.

10 Q. -- because you won't answer the
11 question. And the question --

12 MR. WRONKO: Hold on.

13 MR. McEOY: No, wait.

14 Q. And the answer to the question --

15 MR. WRONKO: Counsel, first of all,
16 don't lean towards my clients.

17 MR. McEOY: I am leaning to look --

18 MR. WRONKO: Sit back. It's been a
19 long day.

20 MR. McEOY: You can't tell me where to
21 sit or how to sit.

22 MR. WRONKO: You will. You're a
23 better attorney than this, Mr. McEvoy. You
24 don't have to lean forward in order to make
25 your point. So I'd appreciate it if you

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1 Varughese
2 would sit back.
3 MR. McEOY: Would you direct your
4 witness to answer the question?
5 MR. WRONKO: I would be happy to.
6 MR. McEOY: Good, then why don't you
7 do that.
8 MR. WRONKO: I am trying to
9 reestablish decorum.
10 MR. McEOY: Then do it.
11 MR. WRONKO: Now, let's have the poor
12 beleaguered court reporter read back the
13 question. Please answer the question.
14 (A portion of the record was read.)
15 MR. McEOY: I'll rephrase.
16 Q. Do you believe, Dr. Varughese, that
17 the only changes to your residency contract
18 through the implementation of new policies that
19 you're obliged to follow are those that are
20 implemented by the board of trustees of the
21 hospital?
22 MR. WRONKO: Objection to form. You
23 can answer it.
24 A. Well, I don't think I said that
25 anywhere and even when I was responding I was just
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1 Varughese
2 saying what, who the contract was from. It was
3 from the board of trustees to the house staff.
4 That's usually how it's presented. My employment
5 contract.
6 Two, in terms of having, implementing
7 policy within the department, that affects the
8 employment and the terms of the employment, I do
9 believe to some degree it has to be approved by
10 the hospital and its leadership. It shouldn't be
11 implemented by residents or chief residents. I
12 mean, that's my opinion. I had concerns about it.
13 I did bring this up with D. Firpo at the second
14 meeting on August 17th.
15 At any rate, this issue was about them
16 asking me to cover and I had an arm injury that
17 prevented me from covering. And I simply told her
18 that I couldn't cover because of that. I mean, if
19 she had a list of, she or whoever the person was
20 arranging the coverage had a list, it was easy
21 enough to just go to the next person and ask them
22 to do it and come back to me at a later date.
23 It was not as if that was the last
24 time a resident would call out. It didn't mean
25 anything more than I couldn't cover that day. It
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1 Varughese
2 wasn't, you know, I don't know.
3 I don't think I made the situation
4 what it was. It was Adrienne Jordan who made the
5 situation what it was. She's a junior resident.
6 She's a third year to my fourth year, and I don't
7 know why, but they chose to make her the chief
8 resident.
9 Q. Whether or not she was a third year
10 and you were a fourth year, she was at the time
11 the co-chief resident along with Dr. Morency,
12 correct?
13 A. Well, yes, she had been the co-chief
14 resident along with Dr. Morency since April or May
15 of 2011.
16 Q. Let me show you another document.
17 MR. McEOY: Mark this Exhibit 37.
18 (Defendants' Exhibit 37, document
19 headed "Acknowledgement of Department
20 Policies," purportedly signed by Leena
21 Varughese on 8/15/2011, marked for
22 identification, this date.)
23 Q. Have you had a chance to look at that?
24 A. Yes.
25 Q. Is this the acknowledgment of
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1 Varughese
2 department policies that you signed on August 15,
3 2011?
4 A. Right.
5 Q. And I take it these were the six
6 policies you were referring to?
7 A. Right.
8 Q. So did you understand that you were
9 required to follow these policies once they went
10 into effect, whatever date that may be?
11 A. Right, I wasn't sure what date it went
12 into effect. I think it was 8/15, because that's
13 when the policy acknowledgement was due.
14 I was on vacation for two weeks. I
15 came back. I received a packet of the printout of
16 these policies and what not in my e-mail box along
17 with a sheet which I signed and submitted back.
18 Q. Whatever date they went into effect,
19 whether it was 8/15 or some date prior, and
20 regardless of who approved them, who implemented
21 them, was it your understanding that you were
22 obliged to comply with them and follow them?
23 A. Right, my understanding was that I did
24 not have any say so about what was the policy and
25 whether or not it should be implemented, if it's
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Varughese

fair, if it changes the terms of my contract with the hospital. I just did not have any way of addressing these concerns.

Q. Did you understand that you were required to follow the policy?

A. Right, so I followed the policies, 8/15. There hasn't been any issues.

Q. That's all I want to know.

I show you another document.

MR. McEOY: Mark this is as Defendants' Exhibit 38.

(Defendant's Exhibit 38, document headed "Policy for Absence/Service Coverage," Bates No. D-904, marked for identification, this date.)

Q. Have you had a chance to look at that?

A. Yes.

Q. Do you recognize it?

A. Yeah, I'm reviewing it as we speak.

Q. Let me know when you've had a chance to do that.

A. OK.

Q. Do you recognize it?

A. Yes.

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Varughese

Q. Is it the policy for absence/service coverage?

A. Yes.

Q. Is that the policy that is one of the six policies referred to in the acknowledgement of department policies that you signed on 8/15/2011?

A. I believe it is.

Q. Did you ever tell anyone that you felt it was unfair for the department to pull you from a clinical pathology rotation to cover anatomic pathology service?

A. I don't know if I said that, but I do believe that's true.

Q. Why do you think that's true?

A. Because -- you know why it's true? Because I only had 18 months of clinical pathology. My minimum requirements for American Board of Pathology is 18 months. Of these 18 months, two of these months were at a hospital where I was not even doing clinical pathology. I had one month of hematology. I barely had one month of cytogenetics. I barely had -- my exposure to clinical pathology was almost nil as far as my expectations go for clinical pathology

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Varughese

training at Mount Sinai Medical Center. The program description promises X, Y and Z. I was getting not any of that.

Q. Did you think being pulled off clinical pathology to do an anatomic pathology coverage for an afternoon was going to jeopardize the requirements that you needed to fulfill?

A. Well, I felt that it decreased the amount of time I can spend on clinical pathology, because I'm on cytogenetics and I wanted to read up on cytogenetics for two weeks. I mean, that's my time that's allotted to cytogenetics.

I would have to find time elsewhere to take and read up about cytogenetics if I missed that opportunity. So I do believe that it was unfair.

Q. When did you sustain the arm injury that you --

A. I sustained the arm injury earlier in the week, like Tuesday or Wednesday.

Q. So that would be the 2nd or 3rd?

A. Right.

Q. How did you sustain the injury?

A. I don't remember now.

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Varughese

Q. And what was the injury?

A. It was just my arm was numb, like I did not have any sensation.

Q. In your entire arm?

A. Right. It was just a transient injury where I just did not have any sensation in my arm.

Q. How long did that last?

A. Just a few days.

Q. How did that affect your ability to perform the work in the cytogenetics lab?

A. It's like, you know, since I couldn't feel it, I just don't want to put myself at risk for injury when I was performing the frozen sections which involved cutting frozen blocks and cutting tissue. I did not want to put myself at risk.

Q. No, I understand that. But did the injury affect your ability to perform the work you were doing in cytogenetics, the tumor cytogenetics rotation?

A. No, because I wasn't involved in cutting or, you know, operating a scalpel or saw or any of that, which is a real possibility when you're in frozen sections or surgical pathology.

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Errata Sheet

Subject: Transcript of deposition day #2 of plaintiff, Dr. Leena Varughese, which was conducted on June 11, 2013

PAGE	LINE	CORRECTION
206	16	Add "a number of questions they asked me regarding moonlighters, moonlighting policies, requesting moonlighters, and its' effect on the department's finances and interests because of payment made to moonlighters." in place of "..."
208	3	Correct "intimating" to "intimidating"
210	10	Correct "would send them" to "was sent an"
211	7	Add "I believe that led to further actions to be taken against me." in place of "..."
211	11	Insert "that" after "saying"
211	24	Add "because I was being held to a different standard by the department when I moonlighted compared to Jordan, and McCash." after "deal"
212	12	Add "observed favorable treatment of males by McCash while being discriminatory to women especially colored women." in place of "--"
214	21	Correct "draw" to "drew"
215	19	Add "they said it was because of the complaint, which I thought meant about the written that I had submitted to HR and the spoken reports to Dr. Stimmel, Pessin-Minsely, Lento, and the Caryn Tiger-Paillex about Samuel McCash's discriminatory harassment and the following day about Alan Schiller's derogatory and discriminatory commentary and treatment of myself on December 09, 2010." in place of "--"
216	13	Add "after I mentioned drinking at work by McCash and Jordan." in place of "..."
222	13	Add "and there was an in incident at Elmhurst Hospital where I was being harassed and treated differently than my male coworker." after "e-mail"

PAGE	LINE	CORRECTION
231	17	Add "had been fabricated and misrepresented by Pessin, McCash, Schiller, Jordan, and Lento to the Dr. Figur." in place of "--"
231	25	Correct "was" to "was not"
239	11	Add "departmental leadership towards me." after "and"
243	13	Correct "No" to "Yes, essentially,"
244	8	Correct "would be" to "work"
244	9	Delete "ask"
244	11	Correct "special" to "specific"
244	14-15	Correct "about like just more reaction" to "such as disciplinary actions, threats of termination,"
245	23	Correct "That's all really. Those two." to "Force disciplinary psychiatry and no response to my concerns regarding McCash, despite the fact that I was the one who was attacked while doing my work as is dictated by policy."
246	3	Correct "you" to "we"
252	6	Insert "if" after "that"
252	7	Insert "if it" after "um,"
252	8	Remove "." and insert " ,"
252	20	Delete "This is, you know, it's untrue,"
253	25	Correct "McClusovitch" to "Mikulasovich"
257	4	Correct "residence" to "resident"
269	12	Correct "assess" to "access"
273	15	Add "me regarding the as needed meetings with Program Director, interim chair/chair, or others in authority, as stated in the Academic Advisement. In fact, I met with numerous authorities in the department and hospital over the period of Academic Advisement, often, at the request of Patrick Lento, who was the program director." in place of "--"

PAGE	LINE	CORRECTION
276	15	Add "and pretext for termination." after "document"
277	16	Correct "for --" with "that was decided by Melissa Pessin-Minsely and Patrick Lento."
288	9	Add "was expected from me." in place of "--"
296	21	Correct "he" to "I"
297	7-8	Correct ". Just I'll write" to ", very"
300	18	Correct ", you" to "know"
300	20	Add "Cordon-Cardo didn't like me according to Barnett." in place of "--"
313	8	Add "response that I received. In addition, Dr. Lento stated that it's my responsibility to see if I met the goals of Academic Advisement." in place of "..."
318	10	Correct "He" to "She"
332	2	Correct "I" to "You"
334	4	Correct "there were" to "were there with the residency program."
334	12	Correct "my pathology" to "as a pathologist"
335	7	Add "that appeared to be the extend of his meeting. Then, he sought me out to meet with him and he said that he had just met with Drs. Cordon-Cardo and Lento."
335	25	Add "building" after "east"
336	11	Add "being treated fairly and like my coworkers, the same concerns that I have had about the discriminatory and disparate treatment, and retaliation based on my gender and factors related to my national origin including race and color." in place "--"
339	21	Add "but as soon as I had the opportunity to appeal the decision when I met with Adolfo Firpo-Betancourt, I made my concerns very clear and that I would like to appeal. However, I was told that the GME office said that I have to agree to the final warning or be fired at that time." in place of "--"
341	2	Correct "morning" to "final warning"

PAGE	LINE	CORRECTION
341	3	Correct "That was" to "These were"
342	18	Add "fair. I know that they wrote it up to be punitive and in further retaliation of my protected complaints of discrimination by McCash, Schiller, Lento, and Pessin-Minsely by the Mount Sinai Medical Center, which in light of national origin and skin color add up to racist and sexist hateful acts of retaliation and discrimination" in place of "--"
344	7	Correct "situation" to "institution"
346	3	Correct "I" to "he"
346	4	Correct "I" to "he"
348	18	Delete "male" and insert "patter of"
354	5	Correct "Burgess" to "Birge"
361	6	Add "a female pathologist or doctor." in place of "..."
362	2	Correct "He" to "It"
362	8	Correct "want some" to "am on"
362	9	Correct "reaction" to "action"
363	24	Correct "Right." to "I spoke to Scott Barnett."
371	24	Correct "So" to ", but"
382	15	Correct "4" to "5"
387	18	Correct "them" to "the presentation"
400	12	Correct "plays to" to "puts"
409	9	Correct "an incident" to "cytogenetics"
411	411	Correct "she" to "Dr. Najfeld"
412	13	Correct "she" to "Dr. Najfeld"
412	14	Correct "with Dr. Najfeld" to "with her at the hearing."
414	9	Correct "whose" to "who is"
415	2	Correct "That's not correct" to "That's not a question."

[illegible]

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Varughese

Q. Did you tell Dr. Najfeld that you had suffered this injury?

A. Dr. Najfeld was not at work that day.

Q. Well, you said it lasted for several days.

A. Oh, like Wednesday or Thursday.

Q. Did you tell Dr. Najfeld at any point in time that you had suffered this injury?

A. No, I did not say anything to her.

Q. Did you tell any of the technicians in the cytogenetics lab that you had suffered this injury?

A. No. Why would I?

Q. I don't know. Did you tell anybody that you had suffered this injury before you told Dr. Jordan you couldn't cover because of the injury?

A. Yes, I told people that I normally speak to about my personal health issues, yes. My family.

Q. Other than your family and your friends and whoever else, did you tell anybody at Mount Sinai, any coworker, any supervisor, anybody in GME, anybody, that you had suffered this

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Varughese

injury?

A. Yeah, I may have told some of my coworkers.

Q. Who?

A. I believe I told the coworker who was sitting next to me, Mabel Cole and probably Jonathan Chow and....

Q. Other than Mabel Cole and Jonathan Chow, anybody else that you remember that you told?

A. No, I didn't tell anybody else, because Adrien Jordan wasn't there. She was in an away elective in Pennsylvania without a working pager or a cell phone or whatever she did not have. Who knows?

MR. McEOY: So it is close to twenty to five or thereabouts. We had agreed previously that we would stop around 4:30 to accommodate Mr. Wronko's travel back to New Jersey and I guess Dr. Varughese's travel back to New Jersey.

As I told Mr. Wronko before we started today, unfortunately we can't go forward tomorrow because some judge has commanded my

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Varughese

appearance. So we'll resume on Thursday. Thank you.

(Time noted: 4:35 p.m.)

LEENA VARUGHESE

Subscribed and sworn to before me
this ____ day of _____, 2013.

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CERTIFICATE

STATE OF NEW YORK)

: ss.

COUNTY OF SUFFOLK)

I, THOMAS R. NICHOLS, a Notary Public within and for the State of New York, do hereby certify:

That LEENA VARUGHESE, the witness whose deposition is hereinbefore set forth, was previously duly sworn and that such deposition is a true record of the testimony given by the witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of June, 2013.

THOMAS R. NICHOLS

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1 Varughese

2 Did you e-mail Dr. Lento, Dr. Jordan
3 and Dr. Morency that you were going to be out on
4 August 11th?

5 A. I probably did, yes.

6 Q. And when you say you probably did, why
7 do you say you probably did?

8 A. Well, I don't recall now, it was so
9 long ago.

10 Q. Were you aware that the policy
11 required you to e-mail the individuals that
12 Dr. Jordan identifies in her e-mail?

13 A. Well, yes, the policy that's in
14 defectus (phon) of 15, then some -- which she
15 attached here it seems.

16 Q. There's an e-mail at the top of the
17 page dated five days later, August 16th at 1:54,
18 and that's an e-mail that you sent? Is that
19 correct?

20 A. Yes.

21 Q. Why did you send this e-mail?

22 A. Why did I send this e-mail? Because I
23 was being harassed at work with this e-mail. Even
24 though she claims that I hadn't informed X, Y and
25 Z people, which she thinks is Dr. Lento, herself

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1 Varughese

2 and Morency, that's what this e-mail implies. But
3 it seems that they have been informed nonetheless.
4 And it seems she's just sending this e-mail
5 because she doesn't have anything better to do
6 with her time or something along those lines or be
7 malicious towards me.

8 Because, I mean, this e-mail does not
9 really obtain any sort of meaningful purpose or
10 anything other than to intimidate me and further
11 marginalize me within the program by a junior
12 resident, Adrienne. So I e-mailed the GME because
13 I was concerned about this behavior, being a
14 fourth-year resident to her third year. And I
15 just let them know what was going on.

16 Because she refers to both program
17 directors. According to the ACGME guidelines
18 we're only supposed to have one program director
19 that the residents are informed about and we know
20 who to go to regarding issues. Now she is
21 referring to two program directors, which has been
22 sort of mentioned here and there. The GME says
23 there are no two program directors, there's only
24 one. Adrienne Jordan insists there are two
25 program directors, and so on and so forth.

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1 Varughese

2 I mean, this program is in complete
3 disarray. It's completely disorganized. On top
4 of that they are going out of their way to harass
5 me with this nonsense even though everyone seem
6 informed about whether or not I'm there or not
7 that day.

8 And then so I sent this e-mail. And I
9 just informed them what was going on. Then I, you
10 know, stated what my understanding was for the
11 guidelines for a program, residency program in
12 pathology, and also I was concerned about
13 instituting new policies and I said, "How can I
14 access the department policy?"

15 What I meant by that was how can I
16 access the policy when changing policy within the
17 department, which I think I clarified to the GME
18 at some point as well. Because there hasn't been
19 any oversight. It just seems willy-nilly. People
20 are changing policies. One e-mail said you can do
21 this. The next e-mail a few days later said
22 something else. This has been going on since the
23 beginning of third year really, and a lot of it, I
24 don't know who was changing the policy.

25 Adrienne Jordan was sending these
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1 Varughese

2 e-mails out. Nobody else was really sending those
3 e-mails out. So it was just very concerning that
4 a third year or second-year resident at that time
5 and then a third-year resident would have such
6 freedom to do whatever she wanted. It seemed
7 really really strange frankly.

8 Q. In the e-mail, your e-mail, you say in
9 the third sentence: "Also, I and many of the
10 residents in the program are concerned regarding a
11 policy for instituting new policies --

12 A. Right.

13 Q. -- "In addition to those already
14 existing within the hospital and the department."

15 A. Right.

16 Q. What residents other than you were
17 concerned about policies?

18 A. Well, I for a fact, this was in June
19 and July. So I was working at the VA and I
20 believe Amanda Blevin was there and Paul Azar was
21 working with me for some time, and also my
22 colleagues, Jonathan Chow, and we were all deeply
23 disturbed by the newly instituted policies and
24 such. And the junior residents also, Diane
25 Crewness, Mabel Ko. I mean, we had some concerns.

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We talked amongst each other and we thought this was strange.

Q. Did you get a response to your e-mail of August 16th?

A. We did eventually, I did eventually get a response, yes.

Q. I will show you a document.

MR. McEVROY: Let's mark this as Exhibit 40.

A. (Continuing) To note, also this e-mail further, you know, reiterates my concern that I'm not getting the minimum CP training time, which whether or not whoever feels that's the case, that wasn't the case. I was not getting the minimum CP time, clinical pathology training time.

Q. What is the minimum CP time?

A. It's minimum is 18, but it can be more.

Q. 18 what?

A. 18 months and it can be more than 18 months with electives, and so on. But that wasn't an option that was offered to me at any point. In fact, beginning with my third year I constantly had to struggle to make sure I was being educated

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to be counted as clinical pathology, but not beyond the one month. I had already done one month of clinical pathology elective at Englewood. So that was done.

Q. So I understand that you were unhappy with your schedule, but with the schedule that you were assigned at the end of your fourth year would you have had 18 months of clinical pathology in the view of the program?

A. In the view of the program? No.

Q. And why do you say that?

A. Because it did not meet the minimum requirements. Englewood is not clinical pathology. And to have excess months of microbiology, which I have already completed at the VA, and to have excess months of whatever else that they assigned me at that time, which may have been -- which I don't even recall anymore, but they were not really in keeping with the curriculum that was promised when I started this residency program in 2008.

Q. So if you look at this document, which we'll mark Exhibit 40. Let me know when you're done.

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In a similar fashion to my comparators, such as Jordan and McCash.

Q. How much CP time had you had by August of 2011? How many months?

A. I believe it may have been nine and a half months.

Q. Did you know what the plan was or what your schedule was going to be to have additional CP training during the coming year?

A. Yes, I did.

Q. How much?

A. Well, I was not satisfied with the schedule. I was not satisfied with the assignments I was given, which were excess months of microbiology at the VA and excess months of Englewood Hospital, which wasn't technically clinical pathology. I mean, it just isn't. It wasn't clinical pathology.

Q. Was it clinical pathology in the eyes of the -- did the program consider it to be clinical pathology?

A. The program considered it as elective time and one month of the two months that we were required as for this elective that we spent there

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(Defendants' Exhibit 40, e-mail dated August 16, 2011, from Paul Johnson to Leena Varughese, Bates Nos. D-1176 and 1177, marked for identification, this date.)

Q. Have you had a chance to look at it?

A. Yes.

Q. So this is an e-mail from Paul Johnson to you with copies to several other individuals dated August 16, 2011 at 7:28 p.m.

Did you get this e-mail, Dr. Varughese?

A. Yes.

Q. In this e-mail Mr. Johnson says, "Dr. Lento is the Program Director and Dr. Firpo is the Director of Educational Activities. Both have responsibilities in overseeing residency education."

Did that address your concern about there being two program directors?

A. No, not at all.

Q. Why not?

A. Because it doesn't explain what the role of Dr. Firpo is. It's a made up position, Director of Educational Activities. I never heard

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1 Varughese

2 of anything before Dr. Firpo was hired for this
3 position. It did not exist before that as far as
4 I knew. It's simply made up by the institution.

5 Q. Who made it up?

6 A. I don't know. You have to ask them.

7 Q. And are you saying that Mount Sinai
8 can't create new positions?

9 A. Did I say that?

10 Q. Well, you said it was made up and
11 you'd never heard of it before.

12 A. I haven't, yes.

13 Q. So do you have any --

14 A. I defer that I am not going to answer
15 that question.

16 Q. Of course you're going to answer that
17 question?

18 A. No, I'm not. That's not what I am
19 saying. I'm saying they probably made it up.
20 That's my position. I have no opinion on whether
21 or not they can make of a position or not. That's
22 not within my jurisdiction or my authority to say
23 or do. But I am of that opinion that they made it
24 up that year.

25 Q. When you say made it up, what do you

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2 mean by made it up?

3 A. That was a position that did not exist
4 before as far as I knew.

5 Q. Did you communicate with Mr. Johnson
6 in any way after you received his e-mail to get a
7 further clarification of the respective duties of
8 Dr. Lento as the program director and Dr. Firpo as
9 the director of educational activities?

10 A. Did I? I may have. I'm not sure at
11 this point. But clearly this e-mail does not
12 answer my concerns in any significant way. I
13 mean, it just says that Dr. Lento is program
14 director which we still figured he was. It
15 doesn't say that Dr. Firpo is not. I mean, that
16 would be an appropriate way of going about things.

17 Then it doesn't really address my
18 policy, I mean, my concern about policies being
19 changed by the department and the chief residents.
20 It doesn't go into that at all. Then it
21 doesn't -- then it says that if I was out sick
22 during a call assignment, then I had to bring in
23 proof, which wasn't the case either.

24 Q. What wasn't the case?

25 A. I wasn't out ill when I was on a call

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1 Varughese

2 assignment.

3 Q. What's your definition of a call
4 assignment?

5 A. Call assignment is when you're
6 scheduled for anatomic pathology or clinical
7 pathology call and you don't -- they call you,
8 they page you and you don't come in to perform the
9 work.

10 Q. On August 11th you were still on the
11 cytogenetics rotation, correct?

12 A. Correct.

13 Q. And your calling in sick that day
14 prevented you from working in that rotation that
15 day, correct?

16 A. However do you mean?

17 Q. If you were sick and not at work you
18 weren't at work in the cytogenetics rotation,
19 correct? You weren't at the hospital that day.

20 A. Well, that's one way of looking at
21 things.

22 Q. Well, what's your way of looking at
23 things?

24 MR. WRONKO: Form objection. You can
25 answer.

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1 Varughese

2 A. My way of looking at things is that I
3 was ill and I could not make it to work.

4 Q. And the fact that you were ill and
5 couldn't make it to work, did that prevent you
6 from taking a call assignment?

7 A. No, it did not prevent me from taking
8 a call assignment.

9 Q. Why not?

10 A. I was not on call on August 2011.

11 Q. Then the e-mail talks about "Dr. Firpo
12 and Dr. Lento have been carefully monitoring all
13 residents' CP experience and are taking pains to
14 ensure that everyone receives the necessary 18
15 months."

16 Then it goes on to say that "Any
17 concerns about meeting this requirement or any
18 others should first be brought to the program
19 leadership for resolution. If the program has not
20 addressed your concerns, you can always bring them
21 to Scott," referring to Dr. Barnett I assume,
22 "Dr. Stimmel, or me, and we will work with you and
23 the program to find the best way forward."

24 After you received Mr. Johnson's
25 e-mail August 16th did you communicate in any way

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options in terms of changing my electives and such because of the overt negativity and antagonism that I was experiencing, and then I also experienced a great deal of maliciousness from Adrienne Jordan, and frankly my only option was to speak to Dr. Firpo. I felt that was my only option.

Q. I understand that. But are you aware of a procedure or a process that you were supposed to follow to change an elective?

A. Do you mean some futile procedure that I am supposed to follow that doesn't yield any results?

Q. Whether it's futile or not, Dr. Varughese, are you aware of a policy or procedure that you're obliged to follow?

MR. WRONKO: Objection, form.

A. Dr. Firpo eventually informed me that, you know, on August 24th or so he sent this e-mail and said that, you know, sent an e-mail to the chief resident saying, well, we understand, there's a policy now, and so on and so forth.

I thought since I had concerns about meeting requirements and getting a similar

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training that would be on par with my peers, and that would be acceptable to the American Board of Pathology, not some arbitrary decision made by the program director who clearly was not acting in my best interest.

So I did do what I thought was the best way to approach this problem, which was to speak to Dr. Firpo, who apparently was the Director of Educational Activities as confirmed by Graduate Medical Education in Exhibit 40 here.

Q. So had you elected GI pathology as one of your rotations for your fourth year?

A. Well, in January or February I had indicated that would be an area that I should have the same degree of training as my peers. Therefore, I said I should do that. Not as an elective, but just even as a rotation I should have done that.

Q. When you received your schedule for your fourth year was GI pathology on your schedule?

A. Yes, it was.

Q. And did there come a time when you wanted to change from the GI pathology elective to

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dermatopathology?

A. Yes, I wanted to change my elective to dermatopathology.

Q. When did you first communicate your desire to make that change? You said you spoke to Dr. Firpo. When did you first speak to Dr. Firpo about that?

A. August 17th and perhaps even August 2nd. I believe I told him on August 2nd as well that I would like to change my elective to dermatopathology.

Q. Where did you have that conversation with Dr. Firpo?

A. In his office.

Q. Anybody else present?

A. Shema Patel.

Q. What did you say to Dr. Firpo, what did he say to you during that meeting about your wanting to change your elective from GI pathology to dermatopathology?

A. He said he's going to speak to the appropriate supervisors for those rotations and to follow up.

Q. Do you know who the supervisors were
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that he was intending to talk to?

A. Right, so eventually he stated that he spoke to Dr. Berzhai, and then he was going to speak to Dr. Harpaz.

Q. Did he say anything else during this meeting?

A. Well, he indicated it shouldn't be such a problem, and so on.

Q. And what did you say?

A. I said, Great. So I look forward to having my schedule and assignments that I need to complete my training.

Q. And did Ms. Patel say anything during the meeting?

A. I don't recall what she said or may not have said.

Q. Did Dr. Firpo communicate with you about your request to change your elective after this meeting?

A. Right. After August 17th I did not hear from him at all. So I eventually called him roundabout I guess, around, um, excuse me, roundabout, around August 23rd, 24th, that time. And I had a phone conversation with him regarding

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with either Dr. Lento, Dr. Firpo, Mr. Johnson, Dr. Barnett or Dr. Stimmel about your concerns about having a sufficient number of CP experience?

A. Yes, I communicated to Dr. Firpo.

Q. Any of the others or just Dr. Firpo?

A. Well, I communicated to Dr. Firpo because I was told Dr. Lento was not technically allowed to interact with me.

Q. So when did you speak to Dr. Firpo that about your concerns about the CP experience?

A. About the CP? I spoke to him the next day, August 17th.

Q. Where did that meeting take place?

A. In Dr. Firpo's office.

Q. Anybody else present?

A. Shema Patel.

Q. Tell me what you said and what Dr. Firpo said and what Ms. Patel said at this meeting.

A. Well, I just brought up my concern about me not meeting 18 months and what specifically were my concerns about that in terms of the breakdown of the CP clinical pathology rotations that I was assigned and what I would

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like to see be addressed and changed in order for me to be satisfied with my clinical pathology training at Mount Sinai Medical Center.

Q. And what changes did you want to make?

A. Well, I would have liked some additional months of hematology and less months of microbiology at the VA.

Q. What did Dr. Firpo say?

A. Dr. Firpo said he has to look at the schedule again. I'm bringing up a serious concern. He has to look at the schedule. He has to talk to Dr. Lento, but he has been told that my training requirements were being met. He said that's what he was informed at some point.

Q. Anything else discussed at this meeting?

A. Yes. We went over some of those things yesterday.

Q. Oh, that was the meeting you talked about yesterday.

A. Yes.

Q. Was your schedule changed?

A. Was my schedule changed? No, it was not changed.

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Q. So the concerns that you raised about wanting more hematology and less microbiology, were the schedules changed in any way to accommodate your concerns?

A. No, the schedule was not changed in any way to accommodate my request.

Q. Dr. Varughese, I think you were telling me why it is that you thought this e-mail did not address the concerns you raised in your August 16th e-mail and I wanted to be sure that you had finished telling me what you wanted to about your reaction to Mr. Johnson's e-mail.

A. Correct, I had went to an authority figure within the institution outside of the department at this point, and that's technically the course of action that we are supposed to take according to the ACGME guidelines even. You go to the program director and then you have to go to someone within the institution before you take any further action.

Q. And who had you gone to?

A. Well, I e-mailed Mr. Paul Johnson and Dr. Barnett. So I would imagine if they would be able to address this issue without me having to

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return to Dr. Firpo or Lento or whoever else.

Q. When Mr. Johnson says in this e-mail that "Dr. Firpo is the Director of Educational Activities," you said a few minutes ago it doesn't say that he's not the program director.

After you got this e-mail were you still uncertain about whether Dr. Firpo was or wasn't a program director?

A. Frankly, I was certain that he wasn't the program director, because according to the guidelines there can be only one program director that oversees the residency program. Particularly residency programs such as pathology, there can only be one.

And Dr. Firpo being the director of educational activities I wasn't sure what his responsibilities were. As far as I knew I was the only person who was meeting with him and having to confer with him on a biweekly basis, and so on.

Q. Now, on August 12, 2011, did Dr. Jordan ask you to cover for Dr. Blau?

A. August what?

Q. 12, 2011.

A. Right, I believe she sent me e-mail

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1 Varughese

2 that day, the night before, the evening before
3 asking me to -- telling me to cover it.

4 Q. I'm sorry, Dr. Varughese, so
5 Dr. Jordan e-mailed you to tell you that she
6 wanted you to cover for Dr. Blau?

7 A. Correct.

8 Q. And when did she do that?

9 A. The evening prior to August 12th. So
10 that would be August 11th.

11 Q. And did you respond to that e-mail?

12 A. Yes. Oh, no, I did not respond to
13 that e-mail. It just said "please cover." So I
14 just assumed that I was going to cover for
15 Dr. Blau.

16 Q. Did you receive any additional
17 communications or further e-mails from Dr. Jordan
18 regarding covering for Dr. Blau on August 12th?

19 A. Not on August 12th. I'm sorry, on
20 August 12th I did receive some e-mails in the
21 afternoon at some point.

22 Q. Did you respond to those e-mails?

23 A. I am not sure.

24 Q. I will show you a document.

25 MR. McEVROY: Mark this as Exhibit 41.

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1 Varughese

2 (Defendants' Exhibit 41, e-mail string
3 dated August 12, 2011, Bates Nos. D-908
4 through 910, marked for identification, this
5 date.)

6 Q. Have you had a chance to look at it?

7 A. Yes.

8 Q. The first e-mail in the string, the
9 earliest e-mail in the string, is to you and a
10 number of others from Dr. Jordan dated August 12,
11 2011 at 8:50 a.m., and a portion of the e-mail is
12 addressed to you and asks you to cover for
13 Dr. Blau on the surgical service that day; is that
14 correct?

15 A. Yes. So she was on surgical service,
16 yes.

17 Q. Is this the first e-mail that you
18 received from Dr. Jordan asking you to cover?

19 A. Right, this is the e-mail I received,
20 yes.

21 Q. And you said you didn't respond to it.
22 Then there's another e-mail from Dr. Jordan on the
23 same day at 10:31 a.m., an hour and 40 minutes
24 later. It says: "Leena, it is 10:30am. Please
25 verify that you are in receipt of this e-mail so

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1 Varughese

2 that I know coverage is taken care of and I can
3 focus on my own rotation as well as let the rest
4 of the surgical team know."

5 Did you respond to this e-mail?

6 A. No.

7 Q. Why not?

8 A. Well, I was in this midst of my own
9 duties and I simply could not respond to her
10 e-mail at that time.

11 Q. Did you ever respond to it?

12 A. Did I ever? Well, I was being
13 bombarded by pages, phone calls, various other
14 duty responsibilities, and so on. I did not have
15 the time to respond to her that day.

16 Q. Did --

17 A. I mean, I'm a doctor in my own right
18 as is Dr. Jordan. She wants to focus on her own
19 rotation and whatever, whatever, and she's in
20 Pennsylvania somewhere, OK, great. But you know
21 what? I have work to do too. It is simply
22 impossible for me to deal with this kind of
23 harassment every single day. When I arrive at
24 work this is what I have to deal with.

25 Q. I want to be sure I understand. So

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1 Varughese

2 you think that Dr. Jordan asking you to confirm
3 that you're going to cover for an absent resident
4 is harassment.

5 MR. WRONKO: Form objection.

6 A. In this manner, yes. Constant
7 bombardment of e-mails, and so on. I mean, what
8 is she really going to do even if -- first of all,
9 there's a chief resident who gets paid in excess
10 of three grand every year to simply be chief
11 resident. What are her duties? Simply making
12 administrative, you know, e-mailing a few things
13 here and there. Instead, I have this new, you
14 know, responsibilities added to her. She is
15 giving us verbal warnings and -- it's outrageous.
16 It's -- it's -- I'm at a loss of words to describe
17 this. It's outrageous. It's a travesty.

18 Q. Did Dr. Lento attempt to page you on
19 the morning of August 12th?

20 A. Yes, and I returned his page.

21 Q. Did you also speak to him by phone?

22 A. I did.

23 Q. Do you see the next e-mail in the
24 chain which is dated August 12, 11:33? It says:
25 "I spoke to Dr. Najfeld who said Leena is there

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and would be released at noon. I tried paging Leena to confirm with her that she was to help cover on surgicals today since Sarah was out sick, but she has not returned my page yet."

So did you not return Dr. Lento's page?

A. Clearly I had already spoken to him. I have no idea what he's speaking about. He's once again exaggerating beyond belief. Like I spoke to him already. He confirms that I had spoken to him. Now he is saying that I haven't returned his page yet? It doesn't make any sense on its face, come on.

Q. Well, if Dr. Lento paged you and you didn't respond to his page and then he called the cytogenetics lab because he knew you were there and spoke to you by phone --

A. Right, because he know I was doing my work.

MR. WRONKO: Hold on. Let him finish his question.

Q. --- and he spoke to you by phone, then he called you because you didn't respond to his page, right?

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Varughese

A. No, I responded to his page. He probably did not pick up his phone and then he found me in cytogenetics and I spoke to him. And he was on the phone with Dr. Najfeld. When I arrived there she said, I'm on the phone with Dr. Lento. I said, OK, I'll give you a minute to finish up your conversation and then we'll continue.

It's not my fault he was otherwise occupied on his phone line. There's no way he could have received my call even if I -- even when I did call him.

And this e-mail is ridiculous. "I tried paging Leena to confirm"? And then she said, um, she said, well, "to help cover on surgicals today." But then he says that I haven't returned his page. Come on. It's farcical at best.

Q. Do you know why --

A. Ridiculous.

Q. Are you done?

A. It's ridiculous.

Q. Are you done?

Do you know why Dr. Lento was calling

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Varughese

Dr. Najfeld? You said when you walked in they were on the phone. Do you know why he called him?

A. Well, it seemed like the administration was intent on my, you know, intent on, you know, creating a story having some context for pretextual termination at some point and they were frankly harassing my supervisors. Like I already mentioned yesterday, and I'm going to mention it again, this has been going on for some time and this was more of the same.

Q. When you spoke to Dr. Lento on the morning of August 12th did Dr. Lento tell you to call Dr. Jordan to let her know that you were going to cover surgicals?

A. I don't recall.

Q. Did you call Dr. Jordan?

A. No.

Q. Dr. Varughese, how are elective rotations -- I'll put it this way. How do you go about selecting your electives? What's the process?

A. Selecting the electives?

Q. An elective rotation.

A. Well, that process has changed over

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the past three, four years I was there. The process has changed --

Q. So you know what time frame we're talking about, in the beginning of your fourth year. So in that August 2011 period going forward. So it would have been your PGY-4 year. How were elective rotations selected?

A. Well, I don't know what happened in my PGY-4 year as to elective selection at that time, but what I do recall was one e-mail from Dr. Lento saying that we have to confirm that we still want to be on that particular elective rotation within a 60-day period, otherwise we're going to lose the elective time.

I mean, I don't know. It was all sorts of ridiculousness. The entire program was chaotic and disorganized. It was being run by a second year and Dr. Lento it seems like along with Dr. McCash. It was --

Q. Dr. Varughese --

A. It was purely --

Q. Here's the problem. Let me tell you what the problem is. The problem is, trust me, I understand how you feel about this. You've told

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1 Varughese
2 me this repeatedly now. I'm not asking you what
3 you think about whether the program was chaotic or
4 run by a second year or whether it was ridiculous,
5 absurd, chaotic, farcical, all the words you've
6 used. Trust me, I got it.

7 What I'm really trying to ask you, and
8 it will go faster for all of us, is not how you
9 feel, but what happened. So my question to you
10 is, did you select an elective rotation at the
11 beginning of your fourth year or for your fourth
12 year?

13 A. Well, I did submit a form stating the
14 particular elective rotations that I would be
15 interested in. This included in no particular
16 order a variety of subject matter.

17 Q. Do you remember what the electives
18 were that you selected?

19 A. Right, I indicated an interest or a
20 potential elective in soft tissue, bone and soft
21 tissue pathology, hemepath cytology and perhaps
22 even GI.

23 Q. And I assume your co-residents also
24 submitted their selections for their electives,
25 correct?

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1 Varughese
2 A. Well, I mean, I'm not completely a
3 hundred percent sure about my elective choices at
4 that time, which was in I believe sometime in
5 January or February of my third year, which is
6 halfway into the third year of the residency.

7 So I selected a few things that I
8 thought would be interesting for me to, you know,
9 explore further and I was only given an option of
10 doing one elective, allegedly an elective, which
11 was GI, which in my opinion was never an elective
12 as far as I knew, because all my colleagues had
13 GI, gastrointestinal pathology rotations, the year
14 prior and I was not offered that. I was not
15 offered the elective to be on GI rotation during
16 my third year.

17 Q. Does there come a point in time when
18 the schedule for, everybody's schedule is
19 finalized?

20 A. Not -- in my opinion it does not get
21 completely finalized because there are issues that
22 arise and people have to be rescheduled.

23 Q. I understand that changes may be made,
24 but is there a point in time, Dr. Varughese, when
25 you get your schedule for PGY-4 year? "Here's

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1 Varughese
2 your schedule for the final year."

3 A. Right, I received my, quote unquote,
4 final schedule numerous times during my third year
5 and my fourth year.

6 Q. Do other residents get their schedule
7 at some point during either the last part of their
8 PGY-3 year, the beginning of their PGY-4 year?

9 A. Well, the schedule is sent to everyone
10 at the same time, or at least that's my
11 understanding.

12 Q. Is it also your understanding that you
13 can request changes to your elective rotations
14 before the schedule is final, but that after the
15 schedule is final changes are not permitted absent
16 extenuating circumstances?

17 A. Frankly --

18 MR. WRONKO: Form objection. You can
19 answer.

20 A. -- that is not completely true.
21 Because the schedule is allegedly finalized
22 numerous times and people's schedules are changed.

23 Q. So then what is your understanding of
24 the circumstances under which a resident, you, can
25 change an elective, can decide to change from one

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1 Varughese
2 elective to another elective? How does that work?
3 What's your understanding of that?

4 A. Well, my understanding is that by
5 default the elective would not be offered if we
6 did not confirm that we wanted that elective
7 according to Dr. Lento's e-mail. So that was
8 understanding.

9 So in all fairness, perhaps my
10 elective should have been removed as is because I
11 never confirmed that I was going to be on this
12 elective. It appeared as though this choice was
13 up to the resident to decide whether or not they
14 still wanted the elective.

15 Q. So I don't think you answered my
16 question. If you have elected a rotation, what's
17 the process by which you can go about changing
18 that elective? I don't think it's any more
19 complicated than I elected this rotation, now I've
20 changed my mind and I want that rotation. How do
21 you do that? What is the process you have to
22 follow to get that change?

23 MR. WRONKO: Form objection. You can
24 answer.

25 A. Well, I mean, I did not have many
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2 what he was doing to accommodate my request.

3 Q. What did he say?

4 A. He essentially said that he still has
5 not spoken to the appropriate personnel and he is
6 not going to or he will eventually. He wasn't
7 very clear and he seemed very -- seemed to be
8 sidestepping as much as possible this issue that I
9 had brought forward. If for no reason other than
10 to just, you know, be malicious towards me.

11 Q. And did Dr. Firpo get back to you at
12 some point to let you know whether your request
13 had been granted or denied?

14 A. Right. So after that day he sent me
15 an e-mail, you know, that was cc'd. The chief
16 residents were cc'd on it. And then after that I
17 didn't hear from him. But I did speak to
18 Dr. Harpaz at that time.

19 I was on call I believe on August 24th
20 and I spoke to Dr. Harpaz very briefly about
21 possibly changing my schedule so that I'm not on
22 his rotation. He seemed OK with it. He didn't
23 seem to think it was a big issue because he had
24 said that he already thought that I had done GI
25 rotation and he wasn't particularly concerned that

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2 I didn't have training in that area or not.

3 And at this time, you know, this is
4 like six, seven months later since the initial
5 elective request, I did obtain a decent amount of
6 exposure to GI, gastrointestinal pathology, at
7 that time through various lectures, meetings and
8 conferences, as well as my own experience at the
9 Bronx VA and Elmhurst Medical Center.

10 So I felt it was OK for me to get out
11 of this, you know, not be on gastrointestinal
12 pathology as an elective, and Dr. Harpaz didn't
13 seem to mind. He said it should not be a problem
14 as long as there is enough adequate personnel.

15 Q. Let me show you a document.

16 MR. McEVOY: Mark this as Exhibit 42.

17 (Defendants' Exhibit 42, e-mail string
18 dated September 7, 2011, Bates Nos. D-1172
19 through 1174, marked for identification,
20 this date.)

21 Q. So Dr. Varughese, this is an e-mail
22 string consisting of two e-mails. There's an
23 e-mail from Dr. Firpo to you dated September 7,
24 2011 at 12:07 p.m., and among other things, it
25 says in number 3: "I must also inform you that

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2 your request for dropping off the elective GI
3 rotation with Dr. Harpaz was denied. You will
4 report to begin that rotation as scheduled."

5 And then there's an e-mail from you,
6 the same day, about an hour and 45 minutes later.
7 at 1:46 p.m., that responds to Dr. Firpo's e-mail.

8 When you received the e-mail from
9 Dr. Firpo dated September 7th it said your request
10 to drop the GI rotation was denied. Was this the
11 first time that Dr. Firpo had told you that the
12 request was denied?

13 A. Yes.

14 Q. And had you spoken to Dr. Harpaz prior
15 to September 7th?

16 A. Yes, I had spoken to him at least once
17 regarding the rotation that I was scheduled for.

18 Q. In any of your communications with
19 Dr. Firpo prior to September 7th, before
20 September 7th, did you tell him that you had
21 arranged for another resident to cover the GI
22 pathology rotation?

23 A. I believe I did not say that to him at
24 all, no.

25 Q. Did you try to find a resident who
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2 would do the GI pathology rotation?

3 A. Right. So I spoke to the fellow who
4 was the GI pathology fellow at that time and I
5 spoke to her regarding, you know, my interest in
6 dropping the GI rotation or even staying on but
7 being able to attend to some of the educational
8 needs that I had. And we discussed this for a
9 while and she thought that it should not be a
10 problem, because she said that she was going to be
11 on the GI rotation that month and it should not be
12 an issue.

13 So if you want to drop it, it should
14 not be a problem, because we do have some medical
15 students and residents and herself who was going
16 to be there, and she said, you know, I should not
17 concern myself with finding coverage, and so on.

18 And she also said if I needed to go to
19 the Osler review course in Tampa for a week or so
20 it should not be a problem as well, because she
21 was going to be there and she didn't foresee any
22 issues.

23 As far as she could tell, she didn't
24 foresee any issues and I find that interesting
25 because she was a former chief resident. We're

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2 talking about Yvelisse Suarez. She was a chief
3 resident for a year. I mean, she clearly knows
4 what she's talking about.

Q. You said you had spoke to "her" and
6 "she" a number of times. Who are you referring
7 to?

8 A. Yvelisse Suarez.

9 Q. Did you ever talk to Dr. Mabel Ko
10 about covering the GI pathology rotation?

11 A. Well, that is an interesting question,
12 because Dr. Firpo e-mailed some accusatory e-mail
13 saying that she had agreed to something, and so
14 on, which was quite shocking to me, but I did
15 speak to Mabel at a resident meeting. There were,
16 you know, I don't know how many people were there
17 at that meeting, perhaps about ten of us.

18 And Mabel -- my schedule indicated
19 that I was on GI elective or rotation period two
20 or something along those lines. And at that time
21 I indicated; Well, I don't want to do GI elective.
22 Is it a possibility that I can drop this elective
23 at this point? That was sometime in May 2011.

24 And Mabel volunteered and said, Well,
25 I would like GI elective. What I didn't realize

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2 was that she was actually on GI elective already
3 for that year, but she was assigned a few months
4 later. What she wanted was to jump into my slot
5 that I had already elected, I had already chosen.
6 So what they did was essentially to put Mabel into
7 my slot and put me into Mabel's GI slot.

8 So that's basically what happened and
9 it can be proven through the schedule changes.
10 Easily proven.

11 Q. After you received the e-mail from
12 Dr. Firpo on September 7th that denied your
13 request to drop the GI rotation and then you
14 e-mailed him back, did you have any further
15 meetings, discussion s, communications with
16 Dr. Firpo about the elective rotation issue?

17 A. After August 24th and then --

18 Q. No, after the September 7th meeting.

19 A. After September 7th?

20 Q. Yes.

21 A. Did I have any further communications?

22 Yes, I did speak to him.

Q. When did you speak to him?

24 A. I spoke to him I believe like an hour
25 or so after I received this e-mail.

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1 Varughese

2 Q. So on September 7th.

3 A. Correct.

4 Q. And where did you speak to Dr. Firpo?

5 A. I spoke to him in his office.

6 Q. Did you go to his office?

7 A. Right.

8 Q. And did you meet with Dr. Firpo?

9 A. Yes.

10 Q. Was anybody present other than you and
11 Dr. Firpo?

12 A. No.

13 Q. Tell me what happened at this meeting.

14 What did you say to him, what did he say to you in
15 particular about the elective rotation issue?

16 A. I just asked him why, you know, like
17 why he was informing me at this late date
18 regarding not dropping the elective rotation
19 and/or, you know, not allowing me to switch out of
20 this rotation even though Dr. Harpaz indicated it
21 shouldn't be a problem. I had spoken to Yvelisse
22 Suarez.

23 And then I went on to talk about, you
24 know, the very other issues that were addressed
25 here, hemepath, and what my responsibilities were

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1 Varughese

2 and what I was doing and how I was working with
3 Dr. Petersen who I've already worked with and who
4 was also my advisor. So, I mean, we discussed a
5 variety of things.

6 Q. What did Dr. Firpo say?

7 A. Dr. Firpo said, Well, OK. I don't
8 know, he didn't say -- he said a few things. What
9 did he say? He said, Oh, this is what they want
10 to do. I talked with Dr. Harpaz. He accused me
11 of going above him and contacting Dr. Harpaz right
12 away. He indicated that I'm not allowed to speak
13 to my mentors or my supervisors, potential
14 supervisors without consulting him first.

15 It was outrageous and unprofessional,
16 just more of the same.

17 Q. Let's take a step back. Did you tell
18 Dr. Firpo at this meeting that even though the
19 request had been denied that you intended to
20 contact other residents directly to see if someone
21 else was willing to take your place in the GI
22 elective?

23 A. No. I said, you know, normally if
24 there is somebody who is interested in doing the
25 GI elective and they would like to switch in,

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1 Varughese
2 that's a possibility to accommodate my request.
3 So that I can do derm path, which I was interested
4 in, or something else like hematology or clinical
5 pathology rotation that I was interested in.

6 Q. But did you tell Dr. Firpo that you
7 intended even after you had received his e-mail to
8 go and talk to residents to get them to --

9 A. No, I didn't want to do that. And I
10 simply told him that's a possibility that can be,
11 that's an approach to see if anybody else was
12 interested. But he -- I didn't say that I was
13 going to do that, no.

14 Q. Did Dr. Firpo tell you it would be
15 inappropriate to do that because your request had
16 already been denied?

17 A. No. That wasn't -- I did not say that
18 I would do that. So if he had said that, I don't
19 know. He was making some assumptions. That's
20 not....

21 Q. Did you tell Dr. Firpo that it's your
22 right to seek a change in your schedule?

23 A. Was it my right?

24 Q. Yes.

25 A. Well, I can seek a change in my

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1 Varughese

2 schedule, yes.

3 Q. But I take it, Dr. Varughese, that you
4 were not permitted to change your elective.

5 A. Well, this went on to become sort of
6 like yes, you're allowed to change if you can get
7 a certain individual to agree and you may have
8 hematology perhaps. Yes, this has evolved into
9 something else at that point. But that's -- it
10 wasn't a, you know, eventually it came out that I
11 may be allowed to change my schedule.

12 Q. You say eventually it came out that
13 you might be allowed to change your schedule. How
14 did it eventually come out?

15 A. Well, it was that I was told to e-mail
16 or approach certain residents or what not.

17 Q. Who told you that?

18 A. Adrienne Jordan.

19 Q. Was this before or after you spoke to
20 Dr. Firpo on September 7th?

21 A. Yes, after I spoke to Firpo.

22 Q. Did Dr. Jordan know that your request
23 had been denied?

24 A. I'm not sure --

25 MR. WRONKO: Form objection.

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1 Varughese

2 A. -- what she is informed of or not
3 informed of.

4 Q. Did Dr. Jordan in your view, not in
5 your view, but did Dr. Jordan have the authority
6 to override a decision made by Dr. Firpo regarding
7 your elective?

8 MR. WRONKO: Form objection. You can
9 answer.

10 A. No, she did not have that authority.
11 I mean, technically chief residents should not
12 have that authority at all to make decisions about
13 another resident's education. It should be left
14 to the discretion of the program director and --
15 not left to the discretion, but it should be
16 determined by the resident who is in training and
17 the residency program.

18 Q. After you spoke to Dr. Firpo in his
19 office on September 7th about your request to drop
20 the GI elective, did you have any further
21 discussions with Dr. Firpo about that request?

22 A. Not after August 7th --

23 Q. September 7th.

24 A. September 7th, no, I did not speak to
25 him any further.

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1 Varughese

2 Q. Did you have any further conversations
3 with Dr. Harpaz?

4 A. No.

5 Q. With anybody in the GME office?

6 A. No. I said, well, if I have to do a
7 GI elective, GI as a rotation it's not the end of
8 the world. I'll do it. I mean, I had my concerns
9 about it, but, you know, if the program needed me
10 to cover for a particular month for a rotation, I
11 was open to doing it even though it wasn't what I
12 was interested in.

13 Q. Dr. Varughese, is there a policy
14 regarding poor conference attendance?

15 A. Yes, there was a policy instituted
16 regarding poor attendance, conference attendance.

17 Q. What was the conference attendance
18 requirement?

19 A. Conference attendance requirements had
20 changed over the years significantly.

21 Q. We're talking now about your PGY-4
22 year.

23 A. PGY-4 year I believe it was a google
24 of 80 percent attendance required.

25 Q. What conferences counted towards the

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1 Varughese
2 between your e-mail of September 13th at 9:41 in
3 the morning and the next day when the presentation
4 was due to prepare it?

MR. WRONKO: Form objection. You can
6 answer.

7 A. Well, I mean, it shouldn't be that
8 complicated, but probably not. I probably did not
9 have enough time. But, I mean, I was willing to
10 make the effort.

11 Q. Dr. Varughese, if you go back to the
12 document that I think is Exhibit 44, and we had
13 looked at the e-mail that you sent offering to do
14 the hodgepodge of the lectures that you missed,
15 the next e-mail in this string is an e-mail from
16 Dr. Firpo to you, also dated September 13th at
17 9:56 a.m., fifteen minutes after your e-mail.

18 And in that e-mail he addressed to you
19 he says: "You are welcome to attend as many
20 conferences as you want and are able to
21 attend without interference to your
22 responsibilities on each rotation. However, the
23 requirement for attendance to all core pathology
24 lectures stands. Please do as other residents
25 have done and comply with this request one and for

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1 Varughese
2 all."

3 Did you get that e-mail?

4 A. Yes.

5 Q. What was your reaction to this e-mail?

6 A. Well, my reaction now. I don't know
7 what my reaction was at that time.

8 Q. So you don't recall your reaction at
9 the time you got it.

10 A. No.

11 Q. So what's your reaction to it as you
12 sit here today?

13 A. Well, it's just -- I'd rather not
14 comment on that actually.

15 Q. You don't get to make that choice. So
16 what's your reaction to that e-mail as you sit
17 here today?

18 A. I take the Fifth on that.

19 MR. WRONKO: You can't take the Fifth
20 Amendment. You have to respond to the
21 question.

22 Q. No one is going to prosecute you for a
23 crime. So that's the only way you get to take the
24 Fifth. So what's your reaction to this e-mail?

25 A. My reaction right now, I'm just a

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1 Varughese

2 little, I mean, it just kind of shows how
3 unprofessional Dr. Firpo is. Because here I am
4 trying to work with everybody just to appease him
5 even though it's an allegation that I did not
6 attend the conferences, no evidence that has not
7 been substantiated in any way, and I'm trying to
8 comply here and here I go, I get yet another
9 e-mail citing me and just antagonizing. It's
10 extremely malicious. Cordon-Cardo is cc'd on
11 this.

12 For all intents and purposes,
13 Elizabeth Morency and Adrienne Jordan are my
14 coworkers and peers. They're not my supervisors
15 and/or, you know, they're on the same level as I
16 am pretty much. In fact, Adrienne Jordan is a
17 year below me. I mean, this just seems very
18 unprofessional and intimidating.

19 Q. And then the next e-mail in this
20 string is an e-mail I believe from you.

21 A. Oh, one more thing. It says here
22 "comply with this request one and for all." I
23 don't even know what that is implying or trying to
24 allege. I don't -- I don't know. It's very
25 disturbing.

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1 Varughese

2 Q. And you send an e-mail to Dr. Firpo
3 and a number of other folks at 11:44 a.m., a
4 little less than two hours later, which says: "I
5 don't feel well. I won't be able to present
6 tomorrow. As you well know, I am not qualified to
7 give any real core lectures as such because I am a
8 resident in training. What happened to the
9 cytology lecture that should be scheduled for
10 tomorrow?"

11 So let's take this in pieces. So what
12 happened between 9:56 and 11:44 that made you
13 unable to present the lecture? What happened to
14 you?

15 A. First of all, I had to prepare this
16 lecture.

17 Q. You said you don't feel well, so
18 that's what I want to know about.

19 A. I wasn't feeling well. I was out that
20 day. I get this e-mail, you know, going on about
21 how I have to present or else.

22 I mean, I was basically afraid of what
23 they were alleging, you know, on and on. And I
24 just said that I couldn't present the lecture
25 tomorrow, so....

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Varughese

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2 **Q.** So when you said you didn't feel well,
3 is that what you meant, what you just said, you
4 were afraid to go and present the lecture?

5 **A.** No, that's not, I mean, I wasn't
6 feeling well. That's a different story, but....

7 **Q.** Then it says: "As you well know, I'm
8 not qualified to give any real core lectures as
9 such because I am a resident in training."

10 What did you mean by that?

11 **A.** What did I mean by that? I don't
12 know. I mean, it just means that I'm not an
13 attending pathologist at this point. I'm
14 basically learning along with everybody else and I
15 -- I don't know. I think that's essentially what
16 I was trying to convey.

17 **Q.** And then it says: "What happened to
18 the cytology lecture that should be scheduled for
19 tomorrow?"

20 **A.** Correct.

21 **Q.** What cytology lecture are you
22 referring to?

23 **A.** Usually it's Wednesday mornings that
24 are scheduled for cytology conferences, which are
25 cytology didactic lectures that are usually

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Varughese

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2 said I was going to be out sick tomorrow. I mean,
3 this is Tuesday, September 13th at 2:02 p.m. I
4 never claimed I wasn't going to come to work. I
5 said I don't feel like I should do this
6 conference. I'm just expressing that I don't feel
7 well. I don't know if I'm going to be able to do
8 this presentation for tomorrow. I mean, that's
9 really all I'm saying here. I didn't say I was
10 going to be out sick tomorrow.

11 Adrienne Jordan goes out of her way to
12 make this decision for me and says that I'm going
13 to be out sick the next day. Based on what? I'm
14 not sure. She has her own imaginings about what
15 I'm saying and she tends to make these decisions.
16 I don't know if she's making the decisions or
17 Dr. Lento is. I'm not sure.

18 But the fact of the matter is, I
19 didn't call out sick. But she states that I'm
20 calling out sick and she writes to the program
21 coordinator Allene Carter stating as such.

22 **Q.** So in response to that you send an
23 e-mail and in that e-mail you say, after you say,
24 Why are you stating I will be calling out
25 tomorrow? Two, you weren't here for period 2,

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Varughese

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2 presented by the cytology fellow. I mean, I don't
3 know why that was being ignored and a lecture
4 wasn't scheduled at that time.

5 **Q.** Did you come to work on September 14th?

6 **A.** 13th, 14th, no, I didn't.

7 **Q.** The next e-mail in this string is from
8 Dr. Jordan to you, Dr. Peterson, Dr. Firpo,
9 Ms. Carter, Dr. Morency at 2:02 on the afternoon
10 of September 13th, which says simply: "Leena will
11 be out sick tomorrow. Please see her e-mail
12 below."

13 **A.** Right.

14 **Q.** That then results or that e-mail
15 results in your sending an e-mail to Dr. Jordan
16 that evening at 8:56 and Dr. Jordan responding to
17 your e-mail about an hour and a half or so later.

18 Why did you respond to Dr. Jordan's
19 e-mail? Why did you say what you said? Rather
20 than go through this line by line, just tell me,
21 Dr. Varughese, how you reacted to Dr. Jordan's
22 e-mail and why you sent the e-mail you sent.

23 MR. WRONKO: Form objection. You can
24 answer.

25 **A.** Why did I -- first of all, I never

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Varughese

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2 which means as the chief resident in service you
3 were not available to the residents who may need
4 you for any reason."

5 And I take it this is the time that
6 Dr. Jordan was on the away rotation?

7 **A.** Correct, she was in Pennsylvania
8 somewhere without a working pager or cell phone or
9 e-mail, and so on, for a month.

10 **Q.** When you say that because you weren't
11 here as the chief resident "you were not available
12 to the residents who may need you for any reason,"
13 was that because she didn't have a pager or
14 working cell phone?

15 **A.** Correct, I mean, she wasn't also on
16 site. Coverage for absent residents, and so on,
17 it is sort of the duty of the chief resident to
18 step in and cover.

19 Frankly, if I was given chief resident
20 position my fourth year that's what I would do.
21 If a resident wasn't there and I could not find
22 somebody else to cover, I would probably end up
23 doing the work. I mean, I do get paid extra, you
24 get paid extra. That's the kind of stuff you have
25 to do when you're a chief resident. That's

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1 Varughese
2 usually the reason you get elected as a chief
3 resident because you show that you're reliable and
4 you are able to do such things.

Q. So were you saying here you thought
6 Dr. Jordan was somehow being neglectful of her
7 duties or unreliable?

8 A. Absolutely.

9 Q. And why you say "absolutely," why do
10 you say that?

11 A. Well, she wasn't there. The program
12 did not make arrangements to have an alternate
13 chief resident who was on duty there during that
14 time. I mean, that's the kind of decisions you
15 should make as a program director when you are
16 allowing schedules, you know, scheduled elective
17 times, away times for chief residents.

18 Q. So do you think that when a chief
19 resident is on an away elective for example that
20 the program should appoint a chief resident to
21 serve in that person's absence until they return?

22 A. They should --

23 MR. WRONKO: Form objection. You can
24 answer.

25 A. Well, they -- I mean, I am sure if

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1 Varughese
2 they need somebody to do that administrative work,
3 yes, they should have somebody who was there. If
4 not, they should, I mean, they should do whatever
5 they think they should do.

6 I mean, I don't work there anymore. I
7 have no opinion about how they should operate or
8 not operate. I can only speak to what happened
9 when I was there, which was that Adrienne Jordan
10 was not there.

11 The program is disorganized. It's in
12 disarray. Certain people are favored. They get
13 what they want, such as Dr. Jordan or Dr. McCash,
14 they can do whatever they want and it's perfectly
15 legit and fine.

16 Q. Was Dr. Morency there during this
17 period of time?

18 A. No, she was not. She was on vacation.

19 Q. When was Dr. Morency on vacation?

20 A. I believe she said that she was on
21 vacation for the first half of the rotation, that
22 period. Period two she was on vacation for two
23 weeks.

24 Q. In this e-mail you also say: "I
25 understand you are the chief this year, but the

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1 Varughese
2 extent to which you are attempting to dictate to
3 me who I should speak to or who I can ask to cover
4 significantly limits my ability to do my work and
5 places an undue amount of stress on me."

6 What did Dr. Jordan do that in your
7 view attempted to dictate to you who you could
8 talk to?

9 A. Right, she sent me e-mails stating
10 that I can only speak to Dr. Yao about schedule
11 changes. She was, you know, essentially ever
12 since May or so she has been, her or Dr. Lento, I
13 mean, I don't want to say if it is Adrienne Jordan
14 or not, because there are e-mails that she sends
15 out that she speaks for herself in the third
16 person narrative.

17 I am not quite sure where a lot of
18 these e-mails are even coming from. I'm not even
19 sure if it's Adrienne Jordan writing these or
20 Dr. Lento is writing these, who has access to each
21 other's e-mails. It's --

22 Q. My only question --

23 A. You know what? I have experienced a
24 significant amount of obstruction in my ability to
25 do my work.

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1 Varughese
2 Q. That's what I'm trying to find out.
3 Because you say in here that Dr. Jordan was
4 attempting to dictate to you who you should speak
5 to. You told me about talking to Dr. Yao about
6 scheduling changes.

7 A. Scheduling changes of course, and also
8 in terms of my schedule changes I had e-mailed her
9 and she said, no, you may not change your schedule
10 in --

11 Q. Now we're talking now about dictating
12 who you can speak to, not about scheduling
13 changes.

14 So other than Dr. Yao was there anyone
15 else that Dr. Jordan told you you couldn't speak
16 to?

17 A. Other than that?

18 Q. Yes.

19 A. Well, she told me I cannot speak to
20 her at some point over the year. And who else has
21 she told me not to speak to?

22 I mean, that's all I can recall right
23 now. If I recall any more I would like to correct
24 or add to that.

25 Q. And it says that she's attempting to

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1 Varughese
2 dictate who I can ask to cover.
3 Who did she tell you that you could or
4 couldn't talk to about obtaining coverage?
5 **A.** Obtaining coverage. Where does it say
6 this?

7 **Q.** It says: "The extent to which you are
8 attempting to dictate to me...who I can ask to
9 cover significantly limits my ability to do my
10 work."

11 **MR. WRONKO:** Form objection.

12 **A.** OK.

13 **Q.** So I want to know who Dr. Jordan told
14 you you could or couldn't ask to speak to about
15 coverage.

16 **A.** Well, right, that's Dr. Yao. I mean,
17 that being one of them. I mean, she was
18 specifying that I can only speak to this one
19 resident in a 24-resident program regarding a
20 schedule change. It seemed really ridiculous, but
21 for some reason she had decided I have to speak to
22 him only. It doesn't make any sense to me.

23 **Q.** Then you go on to say: "I have tried
24 to be supportive of you despite the fact that you
25 have emailed me to say that I cannot have certain

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1 Varughese
2 rotations when the schedule first came out,
3 changed any rotation of interest to me to a
4 significant degree since the initial schedule,
5 refused an elective (my one elective in 4 years),
6 reproached me about switching call and so on so
7 on."

8 What did Dr. Jordan say or do or
9 e-mail otherwise that you could not have certain
10 rotations when the schedule first came out?

11 **A.** Correct, so she made all these -- I
12 mean, that sentence is self-explanatory. And so
13 on so on, meaning, you know, I did not understand
14 why a junior resident who was a third-year
15 resident has this degree of authority or license
16 to treat me like trash. I mean, this is like a
17 really a superiority complex. I don't know if
18 it's something about being a Caucasian female
19 or -- I frankly don't understand it.

20 I don't even understand where this is
21 coming from. Frankly, there is a program director
22 who is supposed to oversee these things and
23 instead I'm dealing with a middleman, middle
24 woman, whatever, who makes these claims,
25 assertions, just out of nowhere it seems to me.

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1 Varughese
2 And I'm not allowed to approach
3 Dr. Lento. I mean, I mean, not that I want to
4 like speak to him even, but I'm left in this
5 situation where I cannot do anything about my
6 educational requirements or interests in a
7 residency training program at Mount Sinai Medical
8 Center.

9 **Q.** Assuming that the things you say in
10 this sentence happened, do you have any knowledge
11 as to whether these were decisions made by
12 Dr. Jordan or made by someone else that she really
13 communicated to you?

14 **A.** Right. That was not made clear. I
15 mean, to some degree it was. It says Dr. Lento
16 doesn't agree. But often these e-mails are sent
17 within five minutes.

18 So it begs the question. Where is she
19 getting the time to contact Dr. Lento, write this
20 e-mail, and so on and so forth, which is why I
21 want to suggest that perhaps Dr. Lento had access
22 to her e-mails and he was writing them, not her.

23 **Q.** You don't know that, do you?

24 **A.** Well, I have to come to that
25 conclusion at this point, because otherwise she is

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1 Varughese
2 making the decisions unilaterally without, you
3 know, input from Dr. Lento.

4 And on top of that Dr. Jordan --

5 **Q.** I want to understand something first.

6 **A.** Can I complete my sentence?

7 **Q.** You can complete anything you want to
8 say. I just want to understand one thing before
9 you do that.

10 No, go ahead, finish.

11 **A.** Well, in addition to my, you know,
12 suspicions that may be happening was that a lot of
13 Dr. Jordan's e-mails were in the third person
14 narrative. It says Dr. Jordan feels this way. I
15 mean, this whole thing doesn't add up, doesn't
16 make any sense.

17 **Q.** So the conclusion that you come to
18 that Dr. Lento had access to Dr. Jordan's e-mail
19 is based on the timing of the e-mails? Because I
20 think you said the responses came like within five
21 minutes.

22 So is that the basis for that
23 conclusion, the speed with which Dr. Jordan
24 responded to your e-mails?

25 **MR. WRONKO:** Form objection. You can
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Varughese

answer.

A. Not just that. It was just a number of different things.

Q. What else other than --

A. Just the decisions that were being made, you know, and Dr. Jordan is saying that she's making these decisions and allegedly Dr. Lento is somehow involved peripherally. Just a number of things in addition to the referring to herself in the third person, and so on.

Q. You say in that sentence that Dr. Jordan "refused an elective (my one elective in 4 years)." What elective are you referring to?

A. I'm speaking about the change in the elective from GI to dermatic pathology.

Q. We looked a little while ago, Dr. Varughese, at the communications you had and the conversations you had with Dr. Firpo about that.

A. Right. And I also had a discussion with the Graduate Medical Education Dr. Barnett and Dr., I'm sorry, Paul Johnson.

Q. So do you have any doubt that

Dr. Firpo or Dr. Barnett or Mr. Johnson is the

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Varughese

addition to all of this, this is all true. "All the same, I have tried to be supportive of you despite the fact that you have emailed me to say that I cannot have certain rotations when the schedule first came out, changed any rotation of interest to me to a significant degree since the initial schedule, refused an elective...reproached me about switching call and so on so on."

Q. So even though we just had this testimony about --

A. Then I said: Whether you realize it or not you're making it a hostile work environment for me and I would like you to stop, I would like for you to stop targeting me.

Q. My question is, even though we just had a conversation or rather question and answer and your testimony was that you now know that Dr. Lento is the, at least according to you, Dr. Lento is the one who decided not to let you change your elective, you still think Dr. Jordan made that decision. Because you just told me what you just read to me is true.

A. Well, Dr. Jordan, I didn't know what role Dr. Dr. Jordan had played in all of this.

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Varughese

individual or individuals who decided to deny your request to change your elective?

A. No, I actually know now it was Dr. Lento who had made that decision it seems.

Q. So whoever it was it wasn't Dr. Jordan.

A. Well, Dr. Jordan -- how was Dr. Jordan involved? I believe Dr. Jordan e-mailed me on February, I mean, I'm sorry, September sometime saying that I can talk to Dr. Yao only. Don't approach any other residents. This is the only resident you can speak to, so on and so forth.

Q. You told me that. But what role does Dr. Jordan play in the decision to not permit you to change your GI elective?

A. What role does she play?

Q. Yes.

A. Well, it seems like she is an agent of Dr. Lento.

Q. Did you get any communication from her, Dr. Varughese, from Dr. Jordan, that talked specifically about your request to change your elective?

A. I can't recall right now. But in

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Varughese

Q. You did or did not?

A. I did not. I mean, I only knew in retrospect that Dr. Lento may have made this decision based on some e-mails that were submitted for the House Staff Affairs Committee hearing.

Q. So at least this part, that she refused an elective, my one elective in four years, may not have been true, right?

A. Refused an elective. She may have had the -- she may have made the decision with Dr. Lento. That's definitely a possibility.

Q. But you don't know that, do you?

A. No. I mean, I'm not privy to these conversations and I'm not involved in some ways.

Q. At the end of this e-mail you say: "I would suggest that you ask Dr. Firpo to email me or dictate any specifics and decrease your burden of administrative responsibilities as such. I will comply and respond to him promptly, whether it is about giving a lecture or call or rotations and so forth."

Do you see that?

A. Right.

Q. Dr. Varughese, I read this, but you

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Varughese

1 wrote it. Was it your intention or your
2 suggestion that you not have to deal with
3 Dr. Jordan going forward, that you deal directly
4 with Dr. Firpo?
5
6 **A.** Right, I wanted to deal with just, you
7 know, because I'm getting bombarded by these
8 e-mails. She is here calling out sick for me even
9 though she has no idea whether or not I'm going to
10 be out sick or not the next day. I mean, she is
11 overstepping her boundaries.

12 Frankly, like this is not a decision
13 for her to make. She's a third-year resident who
14 for some reason was made chief resident. It is
15 beyond me why. And then she goes on to like I
16 felt constantly berate me, intimidate me, be
17 malicious towards me. And I was frankly becoming
18 afraid to be at work and be around her.

19 I mean, this goes to hemepath. When
20 I'm there she will go out of her way to pick up
21 paperwork or my cases and say, This is yours. Do
22 you realize this is yours? What are you doing?

23 Like, would you stop? Like I'm doing
24 my work. I'm perfectly capable of getting
25 whatever paperwork, and so on, that I need. I'm

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Varughese

1 it would be rescheduled for the following day, on
2 the 15th.

3 **Q.** Who told you that?

4 **A.** I believe this e-mail, this
5 September 13th e-mail.

6 **Q.** Let's look. In the e-mail that
7 Dr. Jordan sent to you on September 13th at 10:38
8 p.m. responding to the e-mail that, your e-mail
9 that we were just discussing, in number 10 of that
10 e-mail she says: "Your lecture is rescheduled for
11 this Thursday morning." Correct?

12 **A.** Right.

13 **Q.** And so did you present the lecture,
14 make the presentation rather, on September 15th?

15 **A.** September 15th, no, I did not. I did
16 not make the presentation on September 15th.

17 **Q.** Why not?

18 **A.** Why not? It was still not adequate
19 time for me to present, one. Two, I felt like I
20 was being continued to be targeted. It was
21 illogical to really reassign a presentation from
22 Wednesday to Thursday when in fact there was a
23 person who was already scheduled to present on
24 Thursday morning, which was Robert Guarino, a

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Varughese

1 getting my work done. But she was imposing
2 herself on me at work.

3 **Q.** So your preference was to deal with
4 Dr. Firpo.

5 **A.** Well, I did not have many choices. If
6 I went to the GME, Graduate Medical Education,
7 they would say, Well, you have to work with
8 Dr. Firpo. You have to make things work with him.
9 It's between you and him and this program.

10 It was a very bad situation for me. I
11 mean, they put me on all these disciplinary
12 actions, and so on and so forth. And they put me
13 in a very bad situation where I did not have a lot
14 of options and I could not appeal even in a
15 logical manner or in a reasonable manner to the
16 powers that be and get some results.

17 **Q.** So I think you testified,
18 Dr. Varughese, that you did not come to work on
19 September 14th, correct?

20 **A.** Correct.

21 **Q.** Now, with regard to the presentation
22 that you were supposed to make, was that
23 presentation rescheduled for September 15th?

24 **A.** Correct, I was told on the 14th that

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Varughese

1 white male.

2 And guess what? No actions was taken
3 against him when he cancelled the presentation.
4 Apparently he was allowed to cancel his
5 presentation on Tuesday at 10:30 p.m. it seems.

6 **Q.** How do you know that?

7 **A.** That's what it says here. Because as
8 of Monday morning he was still scheduled to
9 present on Thursday. And as of Tuesday he is no
10 longer presenting and I'm supposed to make a
11 presentation at this grand rounds no less of
12 pathology, and grand rounds according to
13 Dr. Lento's own words.

14 I mean, I don't know if that's to
15 humiliate me. It seems like it was to humiliate
16 me, that they want to reassign this presentation
17 for me on Thursday when it's a grand rounds
18 quality presentation.

19 **Q.** Did you communicate to anybody after
20 you got Dr. Jordan's e-mail that you would be
21 unable to present on September 15th?

22 **A.** Did I communicate to anybody? Well,
23 don't know when I got this e-mail. I may have
24 gotten this at some point later.

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Varughese

Q. Did you get it, Dr. Varughese, sometime before September 15th?

A. Right. I may have gotten it. I'm not sure now. The thing is I -- ah, just scratch that.

Q. So my question is, did you communicate with anybody about the fact that you would be unable to present on September 15th?

A. Did I communicate with anybody? I am not sure.

Q. You said that a Dr. Guarino was also scheduled to present.

A. Yes.

Q. And that that presentation was cancelled?

A. Correct.

Q. Do you know why it was cancelled?

A. I do not know, because how would I know? I'm not privy to that information.

Q. But when you arrived at work, and were you at work on September 15th?

A. Right, I did arrive at work on September 15th and I went to the conference that was being held and I saw Dr. Guarino there.

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Varughese

Q. When you went to the conference, did you know -- you knew that you were supposed to present at the conference; is that right?

A. I am not sure if I knew at that point.

Q. What happened at the conference?

A. What happened? Nothing happened. I went to the conference. I heard Dr. Jeremy Clapper give his presentation.

Q. Did you stay for the whole conference?

A. Right. I had to run to the bathroom, so I left. Because I had a stomach virus.

Q. So does that mean you did or didn't stay for the whole conference?

A. Well, I had to leave because I had to run to the bathroom.

Q. Once you left to go to the bathroom did you come back?

A. Did I come back? I did, but there was no one in the conference room at that time.

Q. So the conference was over. Presumably.

A. I presume it was over at that time, yes.

Q. Now, on September 15th, Dr. Varughese,

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Varughese

after you left the conference that morning, did you remain at work for the rest of the day?

A. Yes.

Q. And during the day did you see and speak to Dr. Firpo?

A. Right. I did speak to him because he came to my desk.

Q. And what time did he come to your desk?

A. I don't recall now.

Q. When he came to your desk was anyone else present other than you and Dr. Firpo?

A. I don't recall right now.

Q. When he came to your desk, what, if anything, did Dr. Firpo say to you?

A. What did he say to me? I just remember him saying that Dr. Jordan or somebody was very upset and he wanted to know what was going on.

And I said, Well, this is what's going on. I'm here. I wasn't feeling well and now I'm feeling a little better. So, you know, work. That's what I said.

Q. Did you tell Dr. Firpo that you didn't

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Varughese

make the presentation because you were unwell, unable to fulfill your duties and you needed to take a leave of absence?

A. No, that's not what I said. I felt that I was being harassed at work and antagonized and intimidated by my coworker who seems to have a free pass to say or do whatever she wanted, and I felt it was the program director who was also condoning these actions and I felt harassed. That's what I told him.

Q. Did you say anything to Dr. Firpo during this meeting about that you needed to take a leave of absence?

A. Yes, I said I would like to consider taking a leave of absence through FMLA if it can be approved by my treating physician.

Q. What did Dr. Firpo say about that?

A. He said that's something I have to go through a request from I believe it's HR or administration and get the form.

Q. And that same day, September 15th, did you meet with Dr. Firpo again?

A. I believe I spoke to him again, yes. I think I did.

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Varughese

1
2 Q. When did you speak to Dr. Firpo the
3 second time on September 15th?

4 A. Well, I believe Shema Patel had
5 arrived at that time and it was with Shema Patel.

6 Q. You said the first meeting was at your
7 desk because he approached you.

8 A. Right, it's like a common area. There
9 are about twenty plus, 23 desks, I don't know.
10 Maybe even 30 desks. It is a very common area.
11 Anybody can hear the conversation.

12 Q. And the second conversation that you
13 said you had with Dr. Firpo, now I gather
14 Ms. Patel was present. Where was that
15 conversation?

16 A. That was also in the same area.

17 Q. During the second conversation with
18 Dr. Firpo and Ms. Patel how long after the first
19 discussion was the second discussion?

20 A. I believe not long after. Maybe half
21 an hour, 40 minutes or so.

22 Q. What happened during the second
23 conversation with Dr. Firpo and now Ms. Patel?
24 What did you say, what did they say?

25 A. I didn't -- I don't think I said that

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Varughese

1 much. I just said, you know, I'd like to take
2 this leave as I had requested and I needed to
3 speak to my physicians and I need some forms to
4 fill out.

5 Q. At this meeting did Ms. Patel give you
6 the paperwork that you needed to complete?

7 A. No, she did not.

8 Q. Did you ever get the paperwork you
9 needed to complete from anyone at Mount Sinai?

10 A. That afternoon Shema Patel delivered
11 some paperwork to me.

12 Q. And was that paperwork paperwork that
13 needed to be completed in connection with your
14 request to take an FMLA leave?

15 A. Right, it was in connection with FMLA.

16 Q. I will show you a document.

17 MR. McEVROY: Mark this as Exhibit
18 47.

19 (Defendants' Exhibit 47, e-mail dated
20 September 15, 2011, from Adolfo Firpo to
21 Dr. Varughese, Bates No. P426, marked for
22 identification, this date.)

23 Q. Have you had a chance to look at that?

24 A. Right.

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1
2 Q. Do you recognize it?

3 A. Right.

4 Q. Tell me what it is.

5 A. It's an e-mail to myself from Adolfo
6 Firpo.

7 Q. Did you receive this e-mail?

8 A. Yes.

9 Q. And what was your reaction to this
10 e-mail?

11 A. I don't know what my reaction to this
12 e-mail was now.

13 Q. Well, it says in here that "I am glad
14 you felt well enough to come to work today. I am
15 also very glad we had an opportunity to discuss
16 your concerns openly and with candor. I was
17 delighted to hear that you had decided to request
18 a leave of absence from the program as I myself
19 had become concerned over the obvious high stress
20 levels that you are experiencing.

21 "As I promised to do, I discussed your
22 concerns with Ms. Patel and we together consulted
23 Ms. Tiger-Paillex at the HR office, Dr. Scott
24 Barnett and [Mr.] Paul [Johnson] of the GME
25 office, to find information about the appropriate

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Varughese

1 process to follow.

2 "I reiterate to you that everyone's
3 primary concern in our Department and at Mount
4 Sinai is your well-being and health. We wish you
5 well. Ms. Patel obtained the information packet
6 to apply for the leave of absence and she will be
7 happy to go over it with you at your convenience.
8 We also talked with Dr. Bruce Petersen, you[r]
9 faculty mentor and current rotation supervisor at
10 hematopathology who also expressed his concern and
11 willingness to excuse from the rotation for health
12 reasons. I am sorry you could not get an
13 appointment with your physician sooner than next
14 week since your health is paramount to all of us.
15 Please meet with Dr. Petersen and discuss this
16 situation candidly. As your Advisor he should be
17 able to provide valuable counsel and guidance at
18 this difficult and stressful time. As you asked
19 of me I will wait to instruct the chief residents
20 to remove [you from] the rotation schedule until
21 you obtain and provide your doctor's note.
22 Please, keep in mind that you may be excused from
23 your duties at any time you feel it necessary for
24 your health and well-being, please keep
25

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Varughese

1
2 Dr. Petersen informed of your activities and
3 decisions so he may make the necessary adjustments
4 in his service responsibilities.

5 "Please take care of yourself and be
6 well." Signed by Dr. Firpo.

7 MR. WRONKO: I want to note for the
8 record that counsel adjusted the reading to
9 make everything grammatically correct.

10 MR. McEVOY: I did.

11 MR. WRONKO: There are some typos.

12 MR. McEVOY: There are. Mr. Johnson
13 is Ms. Johnston for example. You are
14 correct, I did.

15 Q. So Dr. Varughese, when you received
16 this from Dr. Firpo did you think he was being
17 sincere in his expressed concern for you?

18 A. Did I? I don't know if I thought
19 that.

20 Q. On September 15th when you had these
21 two conversations with Dr. Firpo and then one with
22 Ms. Patel did Dr. Firpo change or adjust your
23 responsibilities that day?

24 A. Dr. Firpo?

25 Q. Yes.

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Varughese

1 A. No.

2 Q. Did anyone?

3 A. No.

4 Q. Did Dr. Firpo tell you during either
5 of those conversations that he didn't want you to
6 come to work until you had resolved the issues
7 regarding your request for a leave?

8 A. No.

9 Q. Did Dr. Firpo tell you either during
10 one of these discussions or in this e-mail that
11 you could be excused from your duties if you so
12 wanted, if you so requested?

13 A. He may have expressed that I can be
14 excused if I wanted to be.

15 Q. Did you indicate or say to Dr. Firpo
16 whether you wanted to be excused or whether you
17 wanted to continue to work?

18 A. I did not express any such, any
19 affirmative or negative response to any of those
20 questions.

21 Q. Did you make a doctor's appointment to
22 seek certification for your FMLA leave?

23 A. Did I seek a doctor's? Yes, I did, I
24 did speak to my treating physicians, right.

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Varughese

1 Well, anyway, that's assuming this
2 FMLA leave is for myself. At this point all that
3 was not very clear.

4 Q. Dr. Varughese, you said you wanted to
5 take a leave.

6 A. Right. It could be for myself or
7 somebody else.

8 Q. Were you seeking, did you express an
9 interest in taking a leave for somebody else?

10 A. I didn't make any specific --

11 Q. I understand that. I'm asking you
12 now --

13 A. -- reasons for my request at that
14 time.

15 Q. I understand that. I understand
16 that's what you said. When you asked Dr. Firpo or
17 told Dr. Firpo that you wanted to take a FMLA
18 leave, was the leave intended for you or for
19 someone else regardless of what you said to
20 Dr. Firpo?

21 A. Well, now I can tell you that the
22 leave was intended for me, for some personal FMLA.

23 Q. And that was your intent back in
24 September of 2012, to take a leave for you.

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Varughese

1 A. Correct, which Adolfo Firpo did not
2 really know of, right? Because it is my --

3 Q. Only Dr. Firpo can tell you what he
4 knew or didn't know.

5 A. Well, he would only know what I told
6 him also, so....

7 MR. WRONKO: Wait.

8 Q. Let's go back to the questions and
9 answers. You made an appointment you said with
10 your treating physicians.

11 Did you make an appointment with one
12 doctor or more than one doctor?

13 A. Well, I made an appointment with at
14 least two doctors.

15 Q. Were they both medical doctors or was
16 one a psychiatrist?

17 A. Right, they are both medical doctors
18 and my one appointment I could not keep with my
19 medical doctor because we could not be -- we had
20 some concerns and the second doctor I could not
21 meet with until the following week.

22 Q. When you say you couldn't keep your
23 appointment because we had some concerns, what
24 concerns are you talking about?

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Varughese

A. Concerns is just, um, what concerns?

The concerns we had was there was no appointment slot that I could fill that was available.

Q. So did you ever see a physician, whether a medical doctor or a psychiatrist --

A. Well, psychiatrists are medical doctors.

Q. I understand that. -- to seek that physician's approval for your FMLA leave?

A. Right. I sought my primary care physician regarding my request.

Q. And was your primary care physician willing to certify or willing to certify that you needed FMLA leave?

A. My primary care physician, I met with him on September 20th of 2011 following a meeting with HR and Paul Johnson that morning, and he was, um, my primary care physician thought that I should not go on leave at that time.

Q. So were you able to obtain a medical certification from any physician that you --

A. And also --

Q. Let me finish the question. -- that you needed FMLA leave?

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Varughese

A. Right. So the meeting, the reason for me meeting with my primary care physician was twofold. One was the Family Medical Leave Act, you know, absence certification form. The other was just a certified need to come back to work and state that I was in good enough health to be there.

So when I met with my primary care physician we had a long discussion. I hadn't been to my primary care physician in over a year, a year and a half I believe at that time. So we had, you know, a long discussion about what was going on and what I -- what was going on with my health and my residency and me being a doctor, you know, we would discuss medicine and residency, so on, whenever I do go for a checkup or whatever.

So we had this discussion. He had expressed some concerns regarding what was going on with my residency program, what I felt was going on and what his opinion was, being that he is a mentor to numerous residents as a physician and who oversaw other residency programs in New York.

So given what I had told him, he was

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Varughese

concerned and he thought, well, you're clearly fit to work. So he gave me a fit-to-return-to-work certification and he gave me some reasons for why I should not go on a leave of absence.

Q. So I take it that you never completed the FMLA forms or paperwork and you never provided medical certification of a need for an FMLA approved leave.

A. Well, I didn't get the opportunity to do so completely, because I spoke to my primary care physician and he said, well, you know, these are issues that if you have you should follow up with a treating psychiatrist, medical doctor rather than myself, given, one, I haven't seen you like in a year and a half.

Two, I have some concerns about you going on leave at this point, especially if there are other issues, back issues going on with the residency program.

Three, I think you should go to work. There's nothing wrong with you. You're fit to report to duty.

And, four, follow up with your treating psychiatrist, medical doctor, regarding

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Varughese

any issues you may have or you may be experiencing due to your work environment.

Q. So now answer my question. Did you ever complete the FMLA paperwork?

A. Right, which I did not get the opportunity to complete it.

Q. It was given to you on September 15th, correct?

A. Correct.

Q. And you were terminated on September 21st, correct?

A. Correct.

Q. During those six days did you complete the paperwork?

A. I did not get an opportunity to complete the paperwork.

Q. So the answer is no, you didn't complete the paperwork, right?

A. Right, the hospital did not allow me the opportunity to follow up as I needed.

Q. How did they not allow you to follow up?

A. Because I needed time to make appointment with my treating psychiatrist and that

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1 Varughese

2 did not occur.

3 Q. Because you were terminated before you

4 could make the appointment.

5 A. Correct.

6 Q. Did you ever obtain medical

7 certification for FMLA leave?

8 MR. WRONKO: Form objection.

9 A. Excuse me?

10 Q. Did you ever obtain medical

11 certification for an FMLA leave in September of

12 2011?

13 A. I was terminated before I could

14 completely follow up on my FMLA leave request.

15 Q. Did anybody at Mount Sinai offer to

16 make a doctor's appointment for you with a

17 physician who could provide medical certification?

18 A. No.

19 Q. I will show you another document.

20 MR. McEVROY: Mark this as Exhibit 48.

21 (Defendants' Exhibit 48, e-mail dated

22 September 16, 2011, from Adolfo Firpo to

23 Leena Varughese, Bates Nos. D934 and 935,

24 marked for identification, this date.)

25 Q. Have you had a chance to look at that?

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1 Varughese

2 A. Correct.

3 Q. This is an e-mail from Dr. Firpo to

4 you, copied to several other people, dated

5 September 16, 2011, correct?

6 A. Yes.

7 Q. Finish reading. Let me know when

8 you're done.

9 A. OK.

10 Q. This e-mail says a number of things,

11 but the thing that I want to direct your attention

12 to is towards the bottom of the first page.

13 The last little sentence says: "I

14 must also ask you not to return without the

15 doctor's note and assessment for the leave of

16 absence."

17 Do you see that?

18 A. Right.

19 Q. And the doctor's note that Dr. Firpo

20 is referring to is mentioned in the sentence that

21 says, the second sentence of that paragraph that

22 says: "The fact is that you are required to

23 provide proof of illness for the absences of

24 Monday and Tuesday since they prevented you" --

25 again, it says "form," it should be from -- from

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1 Varughese

2 "fulfilling a professional and academic

3 responsibility of the residency program."

4 The next sentence says: "You must

5 also provide a medical note to proceed with the

6 application for leave of absence you are

7 requesting."

8 Do you see that?

9 So Dr. Varughese, in this e-mail did

10 you understand that Dr. Firpo was telling you not

11 to come to work until you had provided the note

12 for your absence and completed the paperwork

13 necessary for the FMLA?

14 A. Right, this is an e-mail that is sent

15 to me at noontime on Friday after I had already

16 showed up to work saying that I should not be

17 there. It seemed really outrageous. I don't know

18 where it's coming from. It just seemed it's the

19 institution's determination to retaliate against

20 me.

21 Q. Regardless of how you interpret it,

22 the motive behind it --

23 A. It didn't make any sense to me on its

24 face.

25 Q. What doesn't make sense to you,

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1 Varughese

2 Dr. Varughese, when your boss basically says don't

3 come back to work without a doctor's note or an

4 assessment for your leave of absence? What

5 doesn't make sense to you?

6 A. Well, it doesn't make any sense

7 because, first, I was already at work on Thursday.

8 There weren't any issues. I don't know what

9 the performance expectations are of the chief

10 resident, but in terms of my performance it was

11 quite adequate. I worked with Dr. Petersen who is

12 my mentor and advisor and I did not have any

13 problems. I worked with Dr. Strauchen as well.

14 We did not have any issues.

15 It seems as if this is a fabrication

16 by Adolfo Firpo and the leadership of the hospital

17 to insinuate such defamatory statements and state

18 that I should not, you know, be at work, and also

19 the hospital policy technically is how -- you have

20 to explain your leave, you know, absence if you

21 are out for three days or if you miss a call

22 assignment.

23 So I don't know, I mean, given that

24 I'd spoken to Dr. Firpo the day before, he had

25 already sent me an e-mail that was put in as

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1 Varughese

2 Exhibit 47, you know, it just seemed sort of at
3 odds with what he was saying to me from the day
4 before to the following day.

5 Q. If you look at the first sentence of
6 that last paragraph it says: "After our last
7 encounter yesterday afternoon I followed up
8 with" -- again, it should be GME, not GEM -- "the
9 [GME] office about your situation and asked for
10 guidance on the best way to proceed in conformity
11 with federal laws, programmatic and institutional
12 regulations."

13 Do you see that?

14 A. Correct.

15 Q. Regardless of what Dr. Firpo did or
16 didn't say to you when you spoke to him on the
17 15th, he is saying here that after you met and
18 spoke he talked to the people in the GME office,
19 right?

20 A. Right, that implicates them as being
21 involved in this.

22 Q. Clearly they are involved in it. So
23 do you understand, Dr. Varughese, that Dr. Firpo
24 is saying something different than you say he said
25 the day before because he spoke to people who gave

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1 Varughese

2 him guidance as to what should happen going
3 forward?

4 MR. WRONKO: Form objection.

5 A. I don't know if that's really what
6 he's saying.

7 Q. What don't you understand about "I
8 followed up with the [GME] office about your
9 situation and asked for guidance on the best way
10 to proceed"? What's unclear to you about those
11 words?

12 MR. WRONKO: Form objection.

13 A. He is just merely saying that -- what
14 is he saying? He is merely saying that he
15 inquired with the GME office. Then he is claiming
16 that I was absent on Monday and Tuesday, which was
17 clearly false because I was present at work on
18 Monday and absent Tuesday and Wednesday.

19 Q. So he's mistaken about the days of the
20 week, but not --

21 A. Correct. And then --

22 Q. Let me finish. -- but not the number
23 of days you were absent, correct?

24 A. Well, if he doesn't claim the number
25 of days here --

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1 Varughese

2 Q. Monday and Tuesday is two. Would you
3 agree with me about that?

4 A. Yes, it is two.

5 Q. And Tuesday and Wednesday is two?

6 A. Yes, I agree with that too.

7 Q. I'm glad we agree about something. So
8 going back to this, OK? I'm trying to understand,
9 Dr. Varughese, what your perception of your role
10 is and the role of the people who are above you in
11 the program.

12 Dr. Firpo told you in this e-mail
13 pretty clear, I think, "I must also ask you not to
14 return without the doctor's note and assessment
15 for the leave of absence."

16 Now, leaving aside whether you
17 interpreted that to mean whether you should leave
18 on the 16th, did you leave work on the 16th after
19 you got this e-mail --

20 A. No.

21 Q. -- at 11:20? OK.

22 Did you work on Saturday and Sunday?

23 A. No, I was not on call, so no.

24 Q. So your next day of work would have
25 been Monday, the 19th?

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1 Varughese

2 A. Correct.

3 Q. And then I take it you would have
4 worked Monday, Tuesday, Wednesday, Thursday,
5 Friday of the following week, that was your
6 schedule?

7 A. Correct. And I was working with Bruce
8 Petersen who was also cc'd on this e-mail and he
9 did not say that I should not be here nor do my
10 work. He said he was overseeing my duties and my
11 responsibilities and he was perfectly fine with me
12 working with him. He did not say I was having a
13 conniption fit, I was not throwing tantrums or
14 whatever. I don't know what the claim is here.
15 It's illogical.

16 Q. One of the heads of the pathology
17 department, right? Dr. Firpo, we talked about his
18 title, right? You are a resident in the pathology
19 department. Dr. Firpo told you don't come back to
20 work until you bring a doctor's note and until you
21 bring in the note regarding your leave of absence,
22 right?

23 Did you feel that you could just
24 disregard what he said and come to work anyway?

25 MR. WRONKO: Form objection.

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1
2 A. I felt that he was treating me
3 differently from others in the program and he was
4 stipulating to me that I do something that was not
5 regularly done, and I was concerned and
6 Dr. Petersen was also concerned, and we had a
7 discussion regarding this e-mail.

8 Q. I'll get to that in a second. So I
9 accept that you felt about it how you say you felt
10 about it, but that's not my question.

11 A. Which my mentor agreed about.

12 Q. Well, we'll get to that. My question
13 is, did you feel that you could disregard
14 Dr. Firpo's direction not to return to work
15 because you disagreed with it or felt that it was
16 unfair in some way?

17 MR. WRONKO: Form objection. You can
18 answer.

19 A. Did I feel like I can disregard
20 Dr. Firpo's e-mails?

21 Q. Not his e-mails, his instruction to
22 you to not to return to work without the doctors'
23 notes that he mentions.

24 A. Right. Because it was completely
25 opposite of the day before and I did not know what

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1 the -- what the issue was here. It was not really
2 being explained to me. You know, if -- I mean, I
3 don't know why he was insisting that I should not
4 be at work. It seems very irregular.

5 Q. Whether it was irregular, whether you
6 understood why, I take it you understood that he
7 told you not to come back to work.

8 A. Well, I'm a contracted employee. He
9 has to provide me with a logical explanation as to
10 why.

11 Q. Where do you get that from, that he
12 has to provide with you a logical explanation for
13 instructing you not to return to work? What's the
14 basis of that?

15 A. Otherwise it's simply retaliation
16 against me and treating me differently and
17 marginalizing me and this is in keeping with the
18 institution's attitude and actions towards me in
19 the past.

20 Q. So based on all that you have said in
21 response to my questions about this direction from
22 Dr. Firpo, I take it from what you said you feel
23 that you were free to disregard it because you
24 didn't agree with it for the reasons that you've

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1 stated.

2 MR. WRONKO: Form objection. You can
3 answer.

4 A. I felt that this was further
5 retaliation.

6 Q. It's not my question. Let me ask you
7 this. Well, let me ask you this. You knew that
8 you were told not to return. Did you come to work
9 on September 19th, on Monday?

10 A. Yes, I did come to work on
11 September 19th.

12 Q. So Dr. Firpo told you not to come to
13 work, but you came to work anyway, correct?

14 A. Well, it says in the first paragraph
15 that, you know, I'm working with Dr. Petersen. I
16 had already spoken to him and we were managing our
17 work.

18 So then the second paragraph goes on
19 to explain more of, um, more of something. Then
20 he makes a claim that I have severe depression and
21 anxiety response to work demands, which I don't
22 know where he got that from.

23 Then he says I'm not meeting the
24 performance expectations of the chief residents,

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Varughese

1 who are simply my coworkers. They're not my
2 bosses by any means of the word. And in fact,
3 they are not any more qualified than me. So it
4 just seems just outlandish.

5 Q. You may think so. It goes back to the
6 sentence, "I must also ask," the next to last
7 sentence in the document, "I must also ask you not
8 to return without the doctor's note and assessment
9 for the leave of absence."

10 And despite that instruction you came
11 to work on your next scheduled workday, which was
12 Monday, September 19th, correct?

13 A. Right.

14 MR. WRONKO: Form objection. Asked
15 and answered.

16 A. I did come into work the next Monday
17 and I felt this e-mail was extremely harassing and
18 threatening.

19 Q. So you ignored it.

20 A. I don't know if I ignored it.

21 Q. You didn't follow Dr. Firpo's
22 direction.

23 A. I believe this was an extremely....

24 Q. You've answered the question.

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Varughese

Now, you said something about a conversation with Dr. Petersen.

A. I could not complete my sentence.

Q. Feel free. I didn't mean to interrupt you. Finish your sentence.

A. I felt this was an extremely harassing e-mail that did not -- that made up facts, that made claims, that was contrary to the established policies and frankly infringes on my rights as a citizen of this country as well as employee of the hospital.

Q. So what right as a citizen of the --

A. My family medical leave rights, my rights to not be harassed, my civil rights for that matter.

Q. If you'd let me finish the question.

A. To be treated with dignity and respect despite the fact that I'm a colored Indian woman.

Q. I was going to ask you what right you have as a citizen of the United States --

A. Well, those are my rights, I think.

Q. Don't interrupt me again. I am going to ask you, what is the right you have as a citizen of the United States to ignore the

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Varughese

direction of your employer?

MR. WRONKO: Form objection.

MR. McEVOY: She told me she had rights to ignore her employer.

MR. WRONKO: And it calls for a legal conclusion.

MR. McEVOY: She's the one who said she had rights. Fine, I withdraw it.

Q. You told me that you had a conversation with Dr. Petersen about this e-mail; is that right?

A. Well, I had been speaking to my mentor. He's my mentor. I speak to him on a regular basis.

Q. Did you have a conversation with Dr. Petersen about this e-mail?

A. About this e-mail? We spoke about a variety of concerns including Dr. Firpo's behavior.

Q. I'll try one more time. You got this e-mail on September 16th, 2011 from Dr. Firpo that we have been talking about, correct?

A. Right. I'm not sure we specifically went over this e-mail sentence by sentence.

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Q. Whether you went over it sentence by sentence, did you have any conversation with Dr. Petersen in which you said to Dr. Petersen, Dr. Firpo has told me not to come back to work. What do you think about that or I want to talk to you about that?

MR. WRONKO: Form objection. You can answer.

A. Right, well, what happened was Dr. Petersen approached me and asked me what's going on. Is there something going on? Should I know something? Why is he making all these statements?

That's the extent of the reference that we had to this e-mail. Beyond that, no, we did not discuss this e-mail point by point, sentence by sentence.

Q. Whether you discussed it point by point or sentence by sentence, did you discuss with Dr. Petersen on September 16th Dr. Firpo's instruction to you not to return to work till you provided a doctor's note?

A. No, we did not.

MR. McEVOY: Lunch?

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MR. WRONKO: Sure.

(A luncheon recess was taken at 12:55 p.m.)

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AFTERNOON SESSION

(Time noted: 2:05 p.m.)

LEENA VARUGHESE, resumed and testified further as follows:

EXAMINATION BY (Cont'd.)

MR. McEVOY:

Q. So Dr. Varughese, before the lunch break we were talking about the time period around September 16th and September 19th.

After you received the e-mail from Dr. Firpo on September 16th, did you receive any communications from Dr. Hughes?

A. Dr. Hughes, yes, I did eventually.

Q. And what communications did you receive from Dr. Hughes on September 16th?

A. I had received a page. I didn't know who it was from. I called it and they said everyone went home for the day or something. Nobody answered there. So that was the communication I received on Friday.

Q. Let me show you a document.

MR. McEVOY: Mark this as Exhibit 49.

(Defendants' Exhibit 49, two e-mails dated September 16, 2011 from Dan Hughes to

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Leena Varughese, Bates Nos. P430 and P431, marked for identification, this date.)

Q. Have you had a chance to look at that?

A. Yes.

Q. So these are two e-mails from Dr. Hughes to you. The first is dated September 16, 2011 at 5:38 p.m. and the second is dated September 16, 2011 at 6:07 p.m.

Did you receive these e-mails?

A. Yes.

Q. Now, before you received these e-mails from Dr. Hughes, had anyone told you that you were going to be referred to the Physician Wellness Committee?

A. No.

Q. Do you know who referred you to the Physician Wellness Committee?

A. At that time, no.

Q. Do you know now who referred you to the Physician Wellness Committee?

A. It's not completely clear to me.

Q. So when you received these e-mails from Dr. Hughes what was your reaction to them?

A. I don't know what my reaction to them

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Varughese

1 was.

Q. Did you respond to these e-mails?

A. Did I respond to these e-mails? No. I didn't respond.

Q. Why not?

A. I don't know. I didn't have time to respond to them.

Q. Why not?

A. I did not have time.

Q. You did not have time to respond to them before what?

A. Before what do you mean? It says here "promptly see your primary care physician for appropriate care." That's the e-mail that I saw. The second one I did not receive until much later.

Q. Did you interpret these e-mails as requiring a response from you to Dr. Hughes?

A. I interpreted these e-mails as being retaliatory and further punitive actions being taken against me by the hospital.

Q. Why did you interpret them as being retaliatory?

A. Because I had just requested an FMLA leave and I was working with my mentor. There

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weren't any other issues and it seemed as if there was no real reason for such an e-mail to me. And too, Robert Guarino was also scheduled to present and he had cancelled his presentation and I doubt that he was sent the same e-mail.

Q. Do you know if Dr. Guarino requested FMLA leave?

A. Well, requesting FMLA leave does not automatically lead to a referral to Physician Wellness Committee.

Q. That wasn't my question. Do you know if Dr. Guarino requested FMLA leave?

A. I'm not privy to such information.

Q. In addition to Dr. Hughes, on September 16th did Dr. Firpo attempt to contact you other than by the e-mail that we looked at?

A. No.

Q. On September 16th did Ms. Patel attempt to contact you?

A. No.

Q. On September 19th did Dr. Hughes attempt to contact you?

A. No.

Q. And on September 19th did Dr. Firpo

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1 Varughese
2 attempt to contact you?
3 A. No.
4 Q. And on September 19th did Ms. Patel
5 attempt to contact you?
6 A. I believe she did contact me in the
7 afternoon.
8 Q. Now, you said this morning that on
9 September 19th, which was that Monday, you were
10 planning to go to work.
11 A. I was at work on Monday,
12 September 19th.
13 Q. Did you work the entire day?
14 A. Yes.
15 Q. And when did Ms. Patel contact you on
16 the 19th?
17 A. At 4, 4:30 p.m.
18 Q. How did she contact you?
19 A. I don't recall now.
20 Q. What did she say when she contacted
21 you?
22 A. She said she needed to certify the
23 FMLA forms because she had not done so.
24 Q. What did you say?
25 A. I said, well, I assumed she should

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1 Varughese
2 have done so when she gave me the forms.
3 Q. Did you have any other conversation
4 with Ms. Patel during that conversation? Did you
5 say anything else to her, did she say anything to
6 you?
7 A. No, I just went over and she wanted to
8 meet with me to certify the forms.
9 Q. And did you go meet with her?
10 A. Yes.
11 Q. And did you certify the forms?
12 A. Right. She dated it, certified the
13 forms the way she thought she should.
14 Q. And did you plan to go to work on
15 September 20th?
16 A. Yes.
17 Q. And did you in fact go to work that
18 day?
19 A. I did.
20 Q. And on your way to work did you see or
21 meet Ms. Patel?
22 A. I did.
23 Q. Where did that happen?
24 A. I met her like on 96th Street and
25 Lexington.

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1 Varughese
2 Q. Did you meet her in a Starbucks?
3 A. Right, there's a Starbucks at the
4 corner. I was just getting some coffee.
5 Q. And when you saw Ms. Patel in the
6 Starbucks did you speak to her, did she speak to
7 you?
8 A. Right, just said hello and then that's
9 it.
10 Q. Did Ms. Patel ask you why you were at
11 or near the hospital?
12 A. I'm not a criminal, by the way, to ask
13 why am I at or near the hospital.
14 Q. I didn't say you were a criminal.
15 A. I am perfectly entitled to be at
16 Starbucks.
17 Q. Did Ms. Patel --
18 A. At 96th and Lexington.
19 Q. -- ask you why you were there?
20 A. At Starbucks?
21 Q. Yes.
22 A. No.
23 Q. Did she ask you whether you were
24 planning to go to work?
25 A. No. I informed her that I was on my

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1 Varughese
2 way to a conference.
3 Q. When you told Ms. Patel that you were
4 on your way to a conference did Ms. Patel say
5 anything to you about Dr. Firpo's instruction that
6 you weren't supposed to return to work?
7 A. No. She just frantically started
8 making phone calls on her BlackBerry.
9 Q. While you were still in the Starbucks?
10 A. Right, right in front of me while I
11 was obtaining my coffee and I tried to leave.
12 Then she followed me.
13 Q. She followed you from where to where?
14 A. While I was outside of Starbucks. I
15 was walking and she insisted that she walk with me
16 and she followed me.
17 Q. Did Ms. Patel say anything to you
18 while she was following you or walking with you?
19 A. She said I cannot be here. I cannot
20 go to work, and so on and so forth.
21 Q. And did she say anything else?
22 A. Right, so I asked her why she was
23 saying as such and what her rationale was
24 insisting that I not attend work.
25 Q. And --

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Varughese

A. Or attend this conference.

Q. What did Ms. Patel say?

A. She was making phone calls to figure out what she should say to me.

Q. Did she ultimately say something to you?

A. She ultimately told me that I cannot attend conference and I had to wait with her in her office.

Q. So Ms. Patel wanted you to go with her to her office; is that right?

A. Right.

Q. Did you go there?

A. I did. I felt like I had no choice.

Q. Did you meet with anybody at Ms. Patel's office?

A. While I was in that office, and I spoke with her for a few minutes, she was frantically making phone calls. It seemed like she couldn't get in touch with whoever she was trying to call.

So I said, Well, let me just go to conference and I will come back later and meet with you later at a later time, and she decided

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Varughese

against it and she wanted me to wait there and essentially detained me in her office for an extended period of time.

Q. How long were you in Ms. Patel's office?

A. I believe an hour, maybe more.

Q. At some point did Ms. Patel step out of her office to assist a visitor?

A. Right, there was a person who was allegedly lost in the small office space.

Q. Do you find that funny?

A. I'm not -- I don't find it funny. I find it a little unbelievable.

Q. So you don't think there was a person who was actually lost.

A. Well, the person who was lost was -- I don't understand how they could be lost. They wanted to go to Dr. Davis's office, which I wasn't sure it was even on that, in that space. I mean, I don't even know if it was in that office space area and I'm not even sure if Mrs. Patel's office is really in the Icahn building on that first floor.

Q. But you were in an office that

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Varughese

Ms. Patel said was her office, correct?

A. Well, she alleged that was her office, yes. She said that was her office, yes.

Q. Did you think she was not telling you the truth about that?

A. Well, there is like nothing in that office. It is not as if there are any files or anything there. All the cabinets and everything was empty. There wasn't much of anything in there.

Q. So you said that Ms. Patel stepped out of the office to assist the visitor, right?

A. Right. She said, right, that's right. She did step out.

Q. What did she say to you, if anything, when she was leaving the office?

A. What did she say? She didn't say anything to me. She insisted that I stay there, I stay in her office.

Q. How long was Ms. Patel out of her office?

A. How long? I don't know.

Q. And were there files on Ms. Patel's desk?

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Varughese

A. No, there were no files.

Q. Was there anything on Ms. Patel's desk?

A. There was one folder I believe.

Q. And while Ms. Patel was out of the office did you look through that folder?

A. I picked it up, but I didn't really look through it.

Q. Did you open it?

A. Yes, I did open it.

Q. Did you look through the pages?

A. Yes.

Q. Did you think it was appropriate for you to open a file on someone else's desk?

A. No, I don't think it's appropriate.

Q. Did Ms. Patel come back to the office at some point?

A. Yes, she did.

Q. What happened after she came back?

A. She accused me of opening her file and her folder.

Q. What did Ms. Patel say about you looking at or through the folder?

A. Well, I was concerned that I was being

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1 Varughese

2 detained against my will and I wanted to leave.
3 She said, well, I had opened her folder and I
4 apologized for it, and I said I would like to
5 leave at this point.

6 Q. Did you say to Ms. Patel when she
7 asked you about looking through the folder, did
8 you say to her that she should chill out?

9 A. I don't recall now if I said that.

10 Q. Did you say to her what's your
11 problem?

12 A. Did I say that? I don't recall saying
13 that either.

14 Q. So did you eventually leave
15 Ms. Patel's office?

16 A. Did I eventually? Yes, I was forced
17 to leave her office when she wanted me to leave
18 her office.

19 Q. When you left her office where did you
20 go?

21 A. I mean, she left me in her office for
22 an extended period of time. Then she wanted me to
23 leave her office. This is an administrator who
24 frankly I've never met. All I know is that she
25 works for either Dr. Charney or Dr. Davis and I

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1 Varughese

2 believe she was just placed in a position in the
3 department of pathology so that there would not be
4 any, you know, any appearance of discrimination.

5 Q. Why do you say she was placed in the
6 department so there wouldn't be any appearance of
7 discrimination?

8 A. Because she is also a woman of Indian
9 descent as I am. So it would seem as though she
10 was acting in whatever capacity. Doesn't seem as
11 if it's discriminatory.

12 Q. Are you saying, Dr. Varughese, that
13 you think that Ms. Patel was placed in that
14 position to somehow conceal or make it appear as
15 if you weren't being discriminated against because
16 you're an Indian woman?

17 A. Yes.

18 Q. What's the basis for that belief?

19 A. Because she was in all these meetings
20 since July 14th or so and she did not, she never
21 really said anything. She never made any
22 comments. She did not even acknowledge that she
23 was there technically. She had to be introduced
24 by the person who would be there, which is either
25 Cordon-Cardo or Firpo, and yes, she did not really

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1 Varughese

2 serve in any other role than to, as a second woman
3 of Indian descent.

4 Q. And other than the fact that she
5 attended the meetings that you just described, are
6 other reason for your belief that Ms. Patel was
7 placed in that position to conceal or make it
8 appear nondiscriminatory in the treatment of you
9 because she was a woman of Indian descent?

10 A. Right.

11 MR. WRONKO: Form objection.

12 Mischaracterizes her testimony. You can
13 answer.

14 A. Right, because she could also testify
15 to what happened there and she can directly
16 contradict me, thereby allowing the hospital to
17 make whatever claim they want and say that I'm
18 falsifying something even if I were not.

19 Q. Any other reason that you --

20 A. So it would become two against one and
21 one of those individuals would be a woman of
22 Indian descent.

23 Q. Any other reason you believe that
24 Ms. Patel was placed in that reason for the
25 reasons you've described?

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1 Varughese

2 A. Those two reasons.

3 Q. While you were in Ms. Patel's office
4 did you have any discussion with her? Did you
5 talk to her at all?

6 A. Not very much, just insisting that I
7 be allowed to attend to what I wanted to attend
8 to.

9 Q. Did you discuss with Ms. Patel at all
10 the scheduling of doctors' appointments?

11 A. Just mentioned that I am in the
12 process of scheduling or have scheduled. That's
13 it.

14 Q. Did you tell her when your doctor's
15 appointment was scheduled for?

16 A. Yes, I believe I did. I mean, I had
17 no reason to hide that fact, by the way.

18 Q. I didn't say you did.

19 Did you have a meeting with
20 Ms. Tiger-Paillex and Mr. Johnson?

21 A. I did.

22 Q. When was that meeting?

23 A. That was the same morning.

24 Q. So after you met with Ms. Patel in her
25 office, then you had a meeting with Mr. Johnson?

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Varughese

A. Yes, she chaperoned me or walked me over to the HR office.

Q. Where did that meeting take place?

A. In Caryn Tiger's office.

Q. Other than you and Ms. Tiger-Paillex and Mr. Johnson was anybody else present?

A. Not that I'm aware of.

Q. Why? Would you think there was somebody --

A. I mean, if there was a conference call or something like that.

Q. What was discussed at this meeting? What did you say, what did Mr. Johnson say, what did Ms. Tiger-Paillex say?

A. Well, we discussed a variety of things. It was a very long meeting. Amongst the discussed items were my requests for FMLA, my interest in continuing to work, my concerns about how I was being treated. And I mean, I don't know. You must have that tape.

Q. Is that another one of the meetings that you taped?

A. Right, right.

Q. And the tape will say obviously

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whatever it says, but did Mr. Johnson or Ms. Tiger-Paillex ask you why you hadn't responded to e-mails from Dr. Firpo or Dr. Hughes or Ms. Patel?

A. Did they say that? Were they wondering why I did not? I just needed to respond or something, what not. I don't know.

Q. Do you remember saying that you didn't feel the need to respond to e-mails, that, quote, only stated facts, unquote?

A. Did I say that when I was in that meeting?

Q. Yes.

A. I may have.

Q. Did you say in response to a question as to why you had not responded to Dr. Hughes, did you say that you hadn't responded because you had not found the PWC to be helpful in the past?

A. In fact, should I elaborate? I found the PWC to be retaliatory, an action that was taken in retaliation to my complaints of discrimination by the pathology and its leadership, by the pathology department and its leadership. Meanwhile, the PWC was not utilized

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against Adrienne Jordan or Samuel McCash.

Q. Dr. Varughese, you told me that before. What I'm interested in is what you said at this meeting with Mr. Johnson and Ms. Tiger-Paillex.

Did you say that you had not found the PWC to be helpful in the past? Did you say you found it to be retaliatory?

A. I found it to be retaliatory and it wasn't helpful to me. It made me feel like I was being antagonized and being discriminated against.

Q. Did Mr. Johnson remind you that cooperation with the PWC was mandatory?

A. Correct, I believe that is the -- that's what he said.

Q. And how long did this meeting last? You said it was a long meeting.

A. It lasted about 40 minutes, 45 minutes.

Q. And what did Ms. Tiger-Paillex say during this meeting?

A. She said, you know, I don't even know why you requested FMLA and it could be for yourself. It could be for somebody else. It

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Varughese

could be, you know, given all that, we don't know, we don't know what the reason is, but, you know, just follow up and -- so I was concerned about the request for a doctor's note after only being out for two days.

She said, Oh, that's not why we want a doctor's note now, which was sort of contradictory to what Adolfo Firpo had said.

So I was getting a lot of conflicting information from the hospital and I felt that the continued actions, whether it's referral to PWC or being detained in Ms. Patel's office or being forced to meet with Caryn Tiger or Paul Johnson, it's all very extremely punitive and intended to retaliate against me. I mean, I had only requested FMLA a few days before and already so many actions were being taken against me.

Q. During this meeting did Mr. Johnson say anything about Dr. Firpo's instruction to you, that you were supposed to not to return to work until you had provided doctors' notes?

A. So now I was concerned. Dr. Firpo I had already spoken to on Thursday. I had a discussion with him. He clearly knew I was fine.

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1 Varughese

2 He sent me an e-mail that day reiterating as such.
3 And then the following day his tune and tone and
4 whatever had changed.

5 And I assumed he just wanted me to
6 verify that I was out ill or something, and then I
7 came in and I had to make an appointment with my
8 doctor, and which I did, and I assumed the
9 doctor's note would simply verify that I was fit
10 for duty because I could not speak to what had
11 happened a week prior.

12 Q. My question is, did Mr. Johnson during
13 the meeting on September 20th with you and
14 Ms. Tiger-Paillex, did he say anything to you
15 about the fact that you had been told not to
16 return to work?

17 A. Did he say anything to me? I cannot
18 remember off the top of my head.

19 Q. Did Ms. Tiger-Paillex say anything to
20 you about the fact that you had been told not to
21 return to work?

22 A. Right, she said that the doctor's note
23 was just to say that I was OK to work and, I mean,
24 she didn't think it was -- it was like an excuse
25 for me being out the week before. So she thought

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1 Varughese

2 it was a separate issue and --

3 Q. Sorry?

4 A. She thought -- I mean, my
5 understanding was she thought it was separate
6 from, you know, things.

7 Q. You said that when you went to see
8 your primary care physician, I think you said, on
9 September 20th was it?

10 A. Right, that was the appointment that I
11 could get.

12 Q. Right. That at the end of that visit
13 he or she gave you a note to clear you to return
14 to work; is that right? Did I mishear you or no?

15 A. No.

16 Q. He did not give you a note?

17 A. He gave me a note.

18 Q. Did you give that note to anybody at
19 Mount Sinai?

20 A. Right, I went to HR and I met with HR
21 people and I tried to hand in the doctor's note to
22 the HR person and he told me to -- he told me to
23 just hold on to it.

24 Q. Who did you speak to in HR?

25 A. One of the secretaries.

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1 Varughese

2 Q. Do you know his name?

3 A. I believe it was Robert.

4 Q. So did he tell you why you should hold
5 on to it?

6 A. I think Caryn Tiger wasn't there. So
7 I just e-mailed her and let her know that I had
8 the doctor's note that was clearing me.

9 Q. Did you ever give that note to
10 Ms. Tiger-Paillex?

11 A. Well, I didn't have an opportunity
12 because the next day they fired me.

13 Q. Now, after you met with
14 Ms. Tiger-Paillex and Mr. Johnson -- before I ask
15 that, anything else happen at this meeting? By
16 happen at this meeting, any other conversation
17 between -- anything else you said and what they
18 said during this meeting? Other than what you've
19 already told me.

20 A. At that meeting? No, it seemed like
21 they already had made their decision to fire me at
22 that time.

23 Q. Were you fired during that meeting?

24 A. No, I wasn't fired during that meeting
25 but it seemed like that and they said that the

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1 Varughese

2 Department doesn't expect you to return to work
3 and these are their expectations without even
4 explaining why their position was such.

5 Q. What was said to you by either
6 Mr. Johnson or Ms. Tiger-Paillex at this meeting
7 that led you to draw the conclusion that it seemed
8 as if they had already decided to fire you?

9 A. Because they said that the decision,
10 the department's -- the department is not, expects
11 that you not be at work.

12 Even though I was not told that they
13 had arranged, I don't know. Well, scratch that.

14 Q. After the meeting did you send an
15 e-mail to Mr. Johnson and Ms. Tiger-Paillex?

16 A. After this meeting?

17 Q. Yes.

18 A. Yes, eventually I did. After I went
19 to my doctor I sent a letter to them.

20 Q. Let me show you a document.

21 MR. McEVROY: Let's mark this as
22 Exhibit 50.

23 (Defendants' Exhibit 50, e-mail dated
24 September 20, 2011, to Paul Johnson and
25 Caryn Tiger-Paillex from Leena Varughese,

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Bates No. P432, marked for identification, this date.)

Q. Have you had a chance to look at that?

A. Yes.

Q. Why did you send this e-mail to

Mr. Johnson and Ms. Tiger-Paillex?

A. Just to confer to them that I had done what was expected of me.

Q. The last sentence says: "I hope this is satisfactory to you."

A. Right.

Q. Did you say that because they had asked you to send them an e-mail or is it just -- why did you write that sentence?

A. Well, I explained what happened and what I had done and I hoped that HR and Paul Johnson would find that to be adequate.

Q. After you met with Mr. Johnson and Ms. Tiger-Paillex on September 20th, did you go to work?

A. Right, I returned after my doctor's appointment with the doctor's note.

Q. I'm just trying to understand the sequence. You're on your way to work. You run

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desk or -- I wrote this e-mail, then I went to my desk.

Q. The time of the e-mail looks to be 3:15. So you wrote this e-mail and then you said you went to your desk?

A. Yes, right.

Q. This is the desk you described before as being where?

A. On 15th floor of the Annenberg building.

Q. Is that the room you said there were twenty or so desks?

A. Yes, there are like thirty desks or so.

Q. What did you do when you went to your desk after you sent this e-mail?

A. Nothing. I mean, I was just sitting there, just looking through whatever cases were coming up that day or having signed out. Just the usual stuff.

Q. So you performed what would be your normal work duties?

A. Well, I don't know if it's normal. I just wanted to know what was taking place on

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into Ms. Patel. You go to her office. Then she, you said she walked you or escorted you to a meeting with Mr. Johnson and Ms. Tiger-Paillex.

Am I right about that? Is that the sequence?

A. Right.

Q. So after the meeting with Mr. Johnson and Ms. Tiger-Paillex what did you do next that day?

A. I went to the doctor's appointment at noon.

Q. And then after the doctor's appointment you said did you come back to the hospital to give them the note?

A. Yes.

Q. And you gave them, and that's when you described you went to HR, tried to give it to the secretary.

A. Right, that was like around 2 or 2:30 maybe.

Q. So after you tried to give the doctor's note to the secretary in HR, what did you do next that day?

A. Then I, I think I tried to go to my

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hemepath.

Q. What time did you leave the hospital that day to go home?

A. Oh, I didn't leave till I believe, I don't know, 8 or 9 p.m.

Q. Between the time you went to your desk in the residents' room and the time you left at 8 or 9 o'clock, did you see anybody?

A. Right. When I was at my desk Dr. Firpo virtually accosted me and charged at me. He didn't charge at me. But he did approach me and he said, Well, Leena, you cannot be here. You're not supposed to be.

I was like, What are you talking about? I already have the doctor's note. I have everything. Just leave me alone.

And then Paul Johnson appeared and he said, No, you cannot be here. Because I think Dr. Firpo said, Oh, let me call Paul Johnson. Let me call Paul Johnson. So Paul Johnson appears and he said, Well, you cannot be here. Then I was like why not? Literally why not.

Q. What did they say?

A. They said because you cannot be here.

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Varughese

1 They didn't give me a good reason. They did not
 2 give me a reason at all why I shouldn't be there.
 3 Q. Were they there at the same time?
 4 A. Eventually Paul Johnson appeared, yes.
 5 First it was just Dr. Firpo who approached me and
 6 he came to my desk. I think I was even in the
 7 bathroom for a minute and came out and he started
 8 like approaching me and just being just very odd
 9 and threatening.

10 Q. And in response to their saying that
 11 you couldn't be here, you shouldn't be here, did
 12 you leave?

13 A. Did I leave? Yeah, they were -- I had
 14 lost my jacket somewhere. So I wanted to find my
 15 jacket. So I thought perhaps I had left it
 16 downstairs in the cafe.

17 So I explained to them like I would
 18 speak to them later, I'll approach them later,
 19 like I just need to run some errand or what not,
 20 so I tried to do that.

21 And despite me asking them to not
 22 follow me around and such, both these men chose to
 23 follow me around literally all over the hospital.

24 Q. Let's see if I understand. So during

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Varughese

1 this conversation with Dr. Firpo and Mr. Johnson
 2 they tell you you shouldn't be there. Did they
 3 ask you to leave?

4 A. Did they ask me to leave? They said,
 5 Well, you cannot -- they told me I cannot be in
 6 the residents' room.

7 Q. And you said that you wanted to go
 8 find your jacket that you had misplaced.

9 A. Right.

10 Q. And you said you thought you left it
 11 in the cafeteria?

12 A. Right, I thought I left it somewhere
 13 in the cafeteria or in the cafe downstairs.

14 Q. And you went to look for it?

15 A. Right. Then I had Dr. Firpo follow me
 16 for some time telling me -- I don't even remember
 17 what he said to me now, but it was -- then Paul
 18 Johnson took over and he said, OK, let me just
 19 walk, you know, he wanted to walk me. I told him
 20 I would come meet him later, but he didn't want me
 21 to do that. He insisted on following me
 22 everywhere. Then he ended up following me
 23 everywhere throughout the hospital.

24 Q. So when you say that Dr. Firpo and

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Varughese

1 Mr. Johnson followed you are you saying that from
 2 the time you left to go look for your jacket they
 3 followed you around?

4 A. Well, Dr. Firpo was following me
 5 around the residents' room. He was saying, what
 6 do you say? He was like, You cannot be here,
 7 Dr. Varughese. You cannot be here. Leave.
 8 Leave.

9 Just being very, you know, no
 10 explanation, just that he wants me to leave.

11 Q. Do know whether on September 20th or
 12 September 21st a resident had been assigned to
 13 cover for you?

14 A. No, they didn't inform me that they
 15 had assigned somebody else to cover for me.

16 They didn't inform me of anything.
 17 There was no clear communication here with me
 18 about what they were doing in my absence, nothing.
 19 There was no -- you know, technically if somebody
 20 covers for me I'm supposed to at some point cover
 21 for them or do something along those lines, but
 22 there was no such courtesy given to me.

23 Q. So after you found your jacket, and
 24 we're still talking about September 20th, did you

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Varughese

1 leave the hospital?

2 A. Did I leave the hospital?

3 Q. First of all, did you find your
 4 jacket?

5 A. I did find my jacket.

6 Q. And then did you leave?

7 A. No, I didn't leave the hospital. Paul
 8 Johnson wanted to speak to me. So I was like, Do
 9 you mind not following me around and speaking to
 10 me in the middle of the library? Why don't we
 11 just go to your office or something and you can
 12 tell me what is going on.

13 Q. Did you meet with Mr. Johnson
 14 somewhere?

15 A. Right, so, yes, I went to his office.
 16 I was like, So what is it that you wanted to tell
 17 me at this point?

18 Q. This is on September 20th. At what
 19 time?

20 A. This is around I guess after I sent
 21 this e-mail. Around 4.

22 Q. I just want to get the sequence. Was
 23 this before Dr. Firpo and Mr. Johnson came to your
 24 desk and said you couldn't be there or was it

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1 Varughese

2 after that conversation and the hunt for your
3 jacket?

4 MR. WRONKO: Form objection.

5 A. That I spoke to Paul Johnson?

6 Q. In his office.

7 A. Oh, after I sent this e-mail, after I
8 found my jacket, then I asked Paul Johnson just
9 please like, you know, stop following me around.
10 Please go to your office. I'll meet with you
11 there.

12 Q. Who was at this meeting?

13 A. As far as -- it was just me and him.
14 I mean, somebody could have been on the phone or
15 something to be sure.

16 Q. What did you say to Mr. Johnson, what
17 did he say to you during this meeting?

18 A. He just said that they don't want you
19 to come in. I asked him who. He said, well, he
20 didn't really have a clear explanation as to who
21 didn't want me to come in. He said that's all he
22 was told and that's what he expected of me at this
23 point.

24 I said, Well, can you give me a reason
25 or at least give me a letter or something stating

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1 Varughese

2 what I should do or what is expected of me and
3 why? And that wasn't done.

4 Q. Did he say who had told him that you
5 weren't supposed to come in?

6 A. No, he didn't tell me.

7 Q. Did you ask him?

8 A. Did I ask? Yes, I asked him. I asked
9 him why this decision was made and who made the
10 decision. But there was no response as to who and
11 why.

12 Q. How long did this meeting last?

13 A. About five, ten minutes perhaps.

14 Q. After the meeting was over what did
15 you do next?

16 A. Well, I told him I was going to go to
17 the convocation that evening, because I ended up
18 going to it anyway. He said, OK, go. I wasn't
19 told you should not go. So you're allowed to go
20 if you want to.

21 Q. On September 21st, which is the
22 Wednesday, did you go to work?

23 A. On September 21st, yes, I did.

24 Q. Did you go to work intending to
25 perform your duties and responsibilities as a

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1 Varughese

2 pathology resident?

3 A. Well, I went there according to what
4 was, you know, as my duties -- no, I don't know.
5 I don't know if I went there expecting to do my
6 work, especially when I was experiencing so much
7 obstruction and disparate treatment. Of course
8 not.

9 Did I expect to be treated the same
10 way and expect to do my duties at work and be
11 treated with some respect and dignity? No. I had
12 no expectation of that.

13 Q. That wasn't my question. Why did you
14 go to the hospital on September 21st?

15 A. Because that's where I work, and you
16 know what? Nobody gave me an explanation as to
17 why I shouldn't be there. Who told so-and-so for
18 me not to be there. None of these things were
19 being explained to me. It was just this arbitrary
20 and capricious manner of conducting themselves
21 that I was really perturbed at.

22 Q. So even though you had met with Paul
23 Johnson and he told that they, whoever they are,
24 they don't want you to come to work, you went to
25 work the next day.

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1 Varughese

2 A. Well, they wanted me to come to work
3 at 3 p.m.

4 Q. I understand that. Did you go to work
5 before 3 p.m.?

6 A. Yes, I did.

7 Q. What time did you go?

8 A. I got there at I believe maybe 8.

9 Q. That was your usual starting time?

10 A. Well, I start when -- yeah, that's
11 usually supposed to be my starting time. There
12 are times I get to work at 5 or 6 in the morning.

13 Q. So again, even though they told you to
14 get there at 3, we'll get to that in a minute, you
15 went in there earlier than that even though they
16 told you not to come in.

17 A. Right, they didn't tell me not to come
18 in. They told me to come in.

19 Q. They told you to come in at 3.

20 A. 3 p.m., right, with no explanation.

21 Q. I understand that. You went in you
22 said 8 or 9.

23 A. Right, I went in at 8, I believe.

24 Q. At 8. So why did you go at 8 if you
25 had been told to come in at 3?

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1 Varughese

2 MR. WRONKO: Form objection. Asked
3 and answered.

4 A. Because I felt it was in my best
5 interest to go to work at 8. Because this work
6 was important to me, my career is important to me,
7 I enjoy pathology and that's what I thought I
8 should do. I mean, there did not seem to be any
9 really good explanation as to why I should not
10 come in to work.

11 Q. Whether there was in your mind a good
12 explanation or not, you understood, didn't you,
13 that you were not supposed to come to work until 3
14 o'clock?

15 MR. WRONKO: Form objection.

16 A. I mean, you're their attorney, you can
17 tell me why.

18 Q. That's not how this works. My only
19 question for you is, you said that you met with
20 Mr. Johnson. He told you that you weren't
21 supposed to come to work, right?

22 A. It's highly irregular.

23 Q. Is that what he told you?

24 A. What?

25 Q. That you weren't supposed to come in.

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1 Varughese

2 A. He said, I was told as such.

3 Q. Fair enough. Then you were told I
4 presume by Mr. Johnson to come in at 3?

5 A. He said he was told, informed me that
6 I should come in at 3 p.m.

7 Q. So you understood, didn't you, that
8 you weren't supposed to come in until 3 o'clock
9 for whatever purpose you were coming in at 3
10 o'clock?

11 A. Well, I asked for an explanation as to
12 why and none was provided to me.

13 Q. Dr. Varughese, if Mr. Johnson didn't
14 give you an explanation or didn't give you an
15 explanation that satisfied you, did you think you
16 were just free to ignore whatever Mr. Johnson told
17 you to do?

18 MR. WRONKO: Form objection. You can
19 answer.

20 A. That's not what I'm saying here.

21 Q. That's what I am trying to find out
22 what you are saying. Because you have now told me
23 several times that Mr. Johnson told you that they
24 told him to tell you not to come into work.

25 On September 20th you also told me

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1 Varughese

2 that Dr. Firpo and Mr. Johnson came to your desk
3 and told you that you shouldn't be there. Then
4 Mr. Johnson told you to come in at 3 o'clock on
5 September 21st.

6 What I am trying to understand is why
7 you came into work at 8 o'clock on September 21st
8 when you were told repeatedly the day before that
9 you shouldn't be at work. That's all I want to
10 understand. So tell me why.

11 MR. WRONKO: Form objection. You can
12 answer.

13 A. Tell you why? That's privileged
14 communication between me and my attorney.

15 Q. It's not a privileged communication as
16 to why you came to work when you were told not to.

17 MR. WRONKO: If you can't answer the
18 question because it would divulge an
19 attorney-client communication, then you
20 shouldn't answer it. To the extent you can
21 answer it without divulging attorney-client
22 communications then you should.

23 Q. So what's the answer?

24 A. I can't divulge such information.

25 Q. So we'll do it this way. After you

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1 Varughese

2 met with Mr. Johnson and he told you not to come
3 in till 3 o'clock and you left it, did you talk to
4 a lawyer after that on that day?

5 MR. WRONKO: You're not to divulge the
6 substance of any communications.

7 MR. McEVOY: I am not asking what you
8 said.

9 MR. WRONKO: I understand. I am just
10 giving a caution.

11 But keep your answer confined to the
12 scope of his question which is just simply
13 whether you spoke to a lawyer that day.

14 A. I did speak to an attorney.

15 Q. Did you speak, and again, I don't want
16 to know what was said, did you speak to an
17 attorney generally about the issue of whether or
18 not you should go to work?

19 MR. WRONKO: Don't answer that. That
20 goes directly to the substance. That's
21 attorney-client communication.

22 MR. McEVOY: I disagree with you.

23 MR. WRONKO: You're asking about wha
24 the substance of the meeting was.

25 MR. McEVOY: I am asking about whether

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Varughese

or not -- you know, I can ask the question about did you meet with somebody, did you review documents, did you prepare for this, did you do all those things? So I can ask her whether or not -- I didn't ask her what was said, what advice she got. I can certainly ask what the topic was that was discussed. That doesn't go to the substance of the conversation.

MR. WRONKO: It is sort of a back door way to get to the substance.

MR. McEVOY: I can draw the inference from what Dr. Varughese had said and it's not worth arguing about at the moment, so anyway.

Off the record.

(A recess was taken from 11:49 to 11:55.)

BY MR. McEVOY:

Q. So Dr. Varughese, just because we mentioned off the record if for some reason between now and the time we stop around 4:30, if you develop some sort of a headache, you said you get migraines, please let me know. Because I

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Varughese

don't want you to have to answer questions if you're not able to.

You said that Mr. Johnson wanted you to come at 3 o'clock on September 21st. Did he tell you why or where you were supposed to go?

A. Not sure.

Q. I know you said you came in earlier in the day. But at 3 o'clock did you go somewhere or meet with someone?

A. No, I had been fired at that time.

Q. Let me show you another document.

MR. McEVOY: Mark that as Exhibit 51.

(Defendants' Exhibit 51, e-mail dated September 21, 2011, from Paul Johnson to Leena Varughese, and e-mail dated September 20, 2011, from Leena Varughese to Paul Johnson, Bates No. P427, marked for identification, this date.)

Q. Have you had a chance to look at that?

A. Yes.

Q. So this is an e-mail from you to Paul Johnson on September 20th at 7:56 p.m.

Why did you write this e-mail?

A. Why did I write it? I just wrote it

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to summarize what had happened from my perspective.

Q. In the last full paragraph it says: "Finally, I will meet with Dr. Firpo as he had requested at 3 p.m."

A. Right.

Q. And I take it that since it says you will meet, you're talking about 3 p.m. the next day?

A. Right.

Q. How did it come about that Dr. Firpo requested to meet with you at 3 p.m. on September 21st?

A. Paul Johnson said that I'm to meet with Firpo at 3 p.m. the following day.

Q. Is that the 3 p.m. meeting that was discussed at the meeting in Mr. Johnson's office?

A. Yes, that was the meeting. I mean, that's what we discussed at that brief meeting that I asked him to have in his office as opposed to the library or the hallway or the resident office or following me around.

Q. If you look at the beginning of the e-mail string, the e-mail from Mr. Johnson to you,

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at 9:54 on September 21st, so the following morning, it says: "In regard to today's meeting who did you intend to bring as a witness?"

Had you indicated to Mr. Johnson or someone else that you were planning to bring a witness to the meeting?

A. Yes, I thought I should bring somebody with me.

Q. Mr. Johnson asks you to identify who the witness is and says: "We must know in advance who the witness will be. It must be a Mount Sinai employee."

Did you tell Mr. Johnson who the witness was?

A. No.

Q. Did you bring a witness to the meeting?

A. Well, the meeting took place several hours earlier, so no.

Q. Now, on the morning of September 21st when you say that you went to work around 8 o'clock, did you speak to Dr. Petersen that morning?

A. Yes.

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Varughese

1
2 Q. And when did you speak to
3 Dr. Petersen?
4 A. I spoke to Dr. Petersen that morning
5 when I was being accosted by security, hospital
6 security.
7 Q. And we'll get to that in a second, but
8 where did the conversation with Dr. Petersen take
9 place?
10 A. In his office.
11 Q. Was anybody else present?
12 A. Well, his office is part of a larger
13 cluster of offices.
14 Q. Do you know whether anyone else could
15 hear what you were saying?
16 A. Possibly.
17 Q. What did you say to Dr. Petersen, what
18 did he say to you on the morning of September 21,
19 2011?
20 A. I just told him that I was being
21 treated differently, I was being retaliated
22 against. I felt that my rights were being
23 violated. I was being asked to do things that
24 weren't usual protocol for the employees at Mount
25 Sinai Medical Center and that I shouldn't be

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Varughese

1 treated this way. I should be treated fairly.
2 Q. What did Dr. Petersen say?
3 A. He said -- what did he say? He just
4 said he agreed with me.
5 Q. Did Dr. Petersen say anything to you
6 about the fact that, about whether you should or
7 shouldn't be at work that day?
8 A. Should I be? No, he didn't say
9 anything about that.
10 Q. When you went that morning on
11 September 21st did you refuse or tell anyone that
12 you were refusing to let the assigned resident
13 cover for you today?
14 A. No, I did not have any opinion about
15 the assigned resident covering for me at all. I
16 mean, why would I? I mean, I would like to do my
17 work, but the hospital was obstructing me from
18 doing my work and taking away opportunities from
19 me that they provided to everybody else in that
20 program, especially, you know, Adrienne Jordan at
21 that time, McCash.
22 The only difference between me and
23 them was that I had complained about McCash
24 harassing me and since then a series of actions

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1 had ensued against me that was taken upon me by
2 the hospital leadership.
3 I had an attorney who had sent in a
4 letter June 10th or thereabouts, which was
5 completely ignored by the hospital. We did not
6 get any response. And further action was taken
7 against me and it just ensued into this "take
8 action against Leena Varughese."
9 Q. You said a minute ago that you were,
10 quote, accosted, unquote, by security. When did
11 that happen?
12 A. That happened that morning,
13 September 21st.
14 Q. At what time?
15 A. Around 9, 9:15.
16 Q. What happened?
17 A. They approached my desk and they said
18 that they were told that I was to leave, and I
19 informed them I'm a contracted employee of this
20 hospital. If they want me to leave, they have to
21 give me something in writing, because I'm not a
22 threat to anyone or haven't done anything in any
23 way to anybody to warrant such irregular treatment
24 that was directed at me without any explanation at
25

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Varughese

1 all.
2 Q. And when you say they approached you,
3 who approached you?
4 A. Well, the security guard.
5 Q. One? Two?
6 A. There were several.
7 Q. How many?
8 A. I believe it was at least two and they
9 may even have changed and some new person may have
10 come in.
11 Q. So you were approached by maybe two
12 security guards who told you that you had to
13 leave, correct?
14 A. Right.
15 Q. And you said what you just said. What
16 happened next with the security guards?
17 A. It seemed like they agreed and they
18 chose not to accost me any further.
19 Q. So did they leave at that point?
20 A. No.
21 Q. What did they do?
22 A. At least one person stayed.
23 Q. So what happened next with the
24 security guards, if anything? As I understand it,
25

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Varughese

they come and tell you you have to leave. You say you're not leaving without something in writing. They stop accosting you. One of them stays where? Near where you are?

A. Right. They were in that area.

Q. So what happened next with the security guards?

A. Nothing. I just -- I mean, I was on the phone for a while and they asked me to get off the phone.

Q. Who were they?

A. The security guard.

Q. So what happened next? I'm trying to understand. You're sitting at your desk. The security guard is standing nearby. What happened with the security guard? Did he or she stay, leave, speak to you again? What happened?

A. I think they stayed there.

Q. Until when?

A. Until I was fired and I was escorted out by security from the hospital, the hospital, yes. The hospital premises.

Q. And how did you learn that you were being terminated from the program?

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Varughese

A. How did I learn? Because I was presented with a letter at a meeting with Firpo and Cordon-Cardo.

Q. When did the meeting with Dr. Firpo and Dr. Cordon-Cardo take place?

A. It took place at 11 or noon or sometime thereabouts.

Q. Where did the meeting take place?

A. It took place in some office space.

Q. Was it Dr. Cordon-Cardo's office? Was it Dr. Firpo's office, somewhere else?

A. It was neither of those as I knew it. It was a new office.

Q. Anybody else present other than you and Drs. Firpo and Cordon-Cardo?

A. Right, apparently the entire hospital administration was invited.

Q. How do you define the entire hospital administration?

A. Well, Caryn Tiger was there, Fersch, Madeleine Fersch, the psychiatrist, numerous security personnel. A variety of individuals.

Q. So we have Dr. Cordon-Cardo. We have Dr. Firpo, Ms. Tiger-Paillex, Dr. Fersch and some

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Varughese

number of people from security.

A. Right, there was a long line of people that was outside in the hallway.

Q. How many?

A. How many? Perhaps like six, seven, maybe more.

Q. And other than the people you've identified anyone else that you can tell me their name or identify them in some other way?

A. I'm not sure if Paul Johnson was there. But, I mean, no, I cannot really -- it seems like a lot of security personnel was there or perhaps even nurses or nurse practitioners it seemed.

Q. And did any of those individuals attend the meeting between you and Drs. Firpo and Cordon-Cardo?

A. No, when I was there Dr. Fersch said hello. I said, well, what are you doing here, frankly?

Q. So my question is --

A. No, I went into his office and I had a meeting and I asked him what was going on.

Q. When you went into the office to have

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Varughese

the meeting was it you, Dr. Firpo and Dr. Cordon-Cardo?

A. Yes.

Q. There was nobody else in the meeting?

A. Not in the room.

Q. Not in the room, fair enough. OK. So when you -- and you started telling me. So you go into the room with Dr. Cordon-Cardo and Dr. Firpo. What happens at the meeting? What did you say, what did they say?

A. I didn't say much. They just said they have a letter for me and I have to read it. Just in a very sexist, chauvinistic patronizing manner.

Q. So what did Dr. Cordon-Cardo say or do that you interpreted as being a sexist, chauvinistic and condescending manner?

A. He said, Read, read this letter. It was just -- frankly, there are times when Cordon-Cardo will say something and it's almost impossible to understand what he's saying. It seems like he has marbles or something in his mouth. He doesn't speak or enunciate himself very clearly. It's very hard to understand him

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Varughese

1 sometimes.
2
3 And he said that, you know, this is a
4 decision that was made and, you know, along those
5 lines.

6 Q. So leaving aside your perception of
7 Dr. Cordon-Cardo's English language skills and
8 enunciation skills, what did he say or do that
9 leads you to make the statement you just made that
10 he behaved in a sexist, chauvinistic and
11 condescending way? That's all I want to know.

12 A. Well, he was not interested in what I
13 had to say or hearing my opinion about what was
14 going on, and, you know, he had his own -- and he
15 said read it, and I was trying to read and make
16 comment on the document and they didn't want to
17 hear it. It was....

18 Q. What did Dr. Firpo do or say that
19 leads you to the conclusion that he was behaving
20 in a sexist, chauvinistic and condescending way at
21 this meeting?

22 A. Well, I didn't say Firpo was being
23 chauvinistic.

24 Q. Just Dr. Cordon-Cardo?

25 A. No, I mean, I think it's just the
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Varughese

1 overall attitude and behavior of this institution
2 and its leadership.

3 Q. I am not talking about the overall
4 attitude --

5 (Cross-talk.)

6 A. I think I'm trying to answer this
7 question and you're interrupting me.

8 Q. I won't interrupt you and I'll let you
9 finish, but I am asking you about what happened at
10 this meeting. Not about the overall atmosphere at
11 the institution.

12 So I would appreciate if you would
13 answer the question about what happened at the
14 meeting. So go ahead.

15 A. I mean, just the, you know, obtaining
16 ten different individuals from a variety of
17 departments and administrative levels of the
18 hospital and obtaining Madeleine Fersch. It's all
19 making a lot of presumptions and being very
20 presumptive about me as a woman.

21 I feel like they were trying to paint
22 a picture of hysteria or some sort of, you know,
23 mental illness or something that just wasn't
24 frankly there. And it's just I found it, as a

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Varughese

1 physician and a caregiver, I found it very
2 troubling, the course of action that they were
3 taking to be extremely troubling and not in line
4 with the professionalism that I have come to
5 believe in, exemplify and practice.

6 Q. Anything else said by you or Dr. Firpo
7 or Dr. Cordon-Cardo at the meeting on
8 September 21st, 2011?

9 A. I mean, that's all I recall right now.

10 Q. Let me show you a document.

11 MR. McEVROY: Mark this is as Exhibit
12 52.

13 (Defendants' Exhibit 52, letter dated
14 September 21, 2011 to Leena Varughese from
15 Carlos Cordon-Cardo and Adolfo Firpo, Bates
16 Nos. P853 through P858, marked for
17 identification, this date.)

18 Q. Take a look at it and let me know when
19 you're done.

20 Have you had a chance to look at that?

21 A. Yes.

22 Q. Is this the letter that
23 Drs. Cordon-Cardo and Firpo gave to you on
24 September 21, 2011 during the meeting we've been
25 *Computer Reporting NYC Inc.*
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Varughese

1 talking about?

2 A. Yes.

3 Q. And this is the letter I take it that
4 put you on notice that you had been summarily
5 suspended and terminated from the residency
6 program.

7 A. Right, summary suspension and
8 termination.

9 Q. So Dr. Varughese, with regard to the
10 tumor cytogenetics rotation, do you think that
11 during that rotation you did anything wrong or
12 anything unprofessional during your time in that
13 rotation?

14 MR. WRONKO: Form objection. You can
15 answer.

16 A. No, I do not.

17 Q. And during the two times on August 5th
18 and August 12th of 2011 that you were asked to
19 provide coverage for a sick resident, do you think
20 that you did anything wrong or unprofessional with
21 regard to either, on either of those two
22 occasions?

23 A. No.

24 MR. WRONKO: Form objection.
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Varughese

Q. And with regard to your request to change your elective from GI pathology to dermatopathology, do you think you did anything wrong or unprofessional in connection with your request to change your elective?

MR. WRONKO: Form objection.

A. No.

Q. With regard to the conference attendance policy and the request that you make a presentation, do you think that you did anything wrong or unprofessional with regard to those issues?

A. No.

Q. With regard to the communications about your leave of absence or your request for leave of absence in September of 2011, do you think that you did anything wrong or unprofessional regarding your request for a leave?

A. No.

MR. WRONKO: Form objection.

Q. Do you think that you could have been more professional or behaved any differently during any of your meetings with Dr. Firpo?

MR. WRONKO: Form objection.

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Varughese

A. I was professional in my meetings with Dr. Firpo. He wasn't professional.

Q. The same question, do you think that you could have been more professional or behaved in some different manner during any of your meetings with Dr. Cordon-Cardo?

MR. WRONKO: Form objection. You can answer.

A. I was very professional in my meetings with Dr. Cordon-Cardo.

Q. Same question with regard to Dr. Lento.

A. I was very --

MR. WRONKO: Form objection.

A. I was very professional in all my meetings with all of the representatives of the hospital at all times, including Dr. Barnett.

Q. I take it that also means Mr. Johnson, Ms. Caryn Tiger, and Dr. Jordan and whoever else?

A. Absolutely, yes.

MR. WRONKO: Form objection.

Q. And last question on that line. Do you think that with regard to Dr. Firpo's instruction that you not return to work on

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Varughese

September -- the instruction he gave you on September 16th that you weren't to return to work, do you think that you did anything wrong or behaved unprofessionally with regard to that instruction or what happened or what you did thereafter?

MR. WRONKO: Form objection. You can answer.

A. No.

Q. In the termination letter that we just looked at, the last paragraph says that "You have a right to appeal your summary suspension and termination by requesting, in writing, a hearing before the House Staff Affairs Committee of the Medical Board within ten days of receiving this notice."

Do you see that?

A. Yes.

Q. Did you appeal the summary suspension and termination?

A. Yes, I sent a letter to Dr. Michael Harris and I found some hindrance in terms of obtaining this hearing even.

Q. I'm sorry? I didn't hear what you
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Varughese

said.

A. Hindrance. There was some hindrance in obtaining the hearing, because Dr. Harris apparently did not get the letter and I had to resend the letter. I mean, just to get this hearing it was very difficult.

Q. Let me show you a document.

MR. McEVOY: Mark this as Exhibit 53.

A. (Continuing) It seemed as though the hospital did not want me to appeal. Although they do say that's a due process right that I have.

(Defendants' Exhibit 53, letter dated September 28, 2011, to Dr. Michael T. Harris, from Leena Varughese, MD, Bates No. D-1407, marked for identification, this date.)

Q. Have you had a chance to look at that?

A. Right.

Q. Is this the letter that you sent to Dr. Harris requesting a hearing to appeal the decision of summary suspension and termination?

A. Yes.

MR. McEVOY: We need to get a document. So let's take a couple of

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1 Varughese
2 minutes.
3 MR. WRONKO: OK.
4 (A recess was taken from 3:25 to
5 3:35.)
6 BY MR. McEVOY:
7 Q. So Dr. Varughese, we just identified
8 that letter and that letter is the one dated
9 September 28th from you to Dr. Harris requesting a
10 hearing.
11 Was a hearing scheduled?
12 A. Eventually.
13 Q. When was the hearing scheduled for?
14 A. It was scheduled for November 14th.
15 Q. Did it take place on November 14th?
16 A. Yes, it did.
17 Q. In front of what body was the hearing
18 held?
19 A. It was supposed to be an ad hoc
20 committee consisting of a variety of individuals,
21 physicians who were hired in the hospital.
22 Q. And it's called the House Staff
23 Affairs Committee?
24 A. Right.
25 Q. Did there come a point in time when
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1 Varughese
2 you received the decision of the committee?
3 A. Yes.
4 Q. When did you receive the decision?
5 A. December sometime.
6 Q. I show you a document.
7 MR. McEVOY: Mark this as Exhibit 54.
8 (Defendants' Exhibit 54, letter dated
9 December 2, 2011, from Steven Weinfeld,
10 M.D., to Dr. Leena Varughese, marked for
11 identification, this date.)
12 Q. Take a look at it and let me know when
13 you've had a chance to do that.
14 A. OK.
15 Q. Have you had a chance to look at that?
16 A. Yes.
17 Q. Is this the decision of the House
18 Staff Affairs Committee that you received in
19 December of 2011?
20 A. Yes.
21 Q. And it says what it says, but the
22 committee found that the Department of Pathology's
23 actions to suspend and terminate you were
24 supported by the testimony and other evidence and
25 were not arbitrary and capricious, correct?
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1 Varughese
2 MR. WRONKO: Objection to form.
3 Q. Is that what it says?
4 A. What it says?
5 Q. Look at page 7 of the document. It's
6 not there. It's on page 7.
7 A. Right, but it doesn't say that on the
8 cover letter.
9 Page 7? Let's see.
10 MR. WRONKO: I just want to put a
11 general objection on the record. I know my
12 substantive objections are preserved to
13 trial, but just to the extent that I'll make
14 an objection that this document ultimately I
15 don't think would be admissible given the
16 fact that it's a different body making a
17 substantive determination about the issues
18 in dispute.
19 But with that being said, that's
20 reserved till trial. I just wanted to make
21 a note on the record.
22 MR. McEVOY: Suffice it to say, I
23 disagree with you.
24 Q. So on page 7 it says: "In sum, as
25 indicated above" -- It's the last paragraph on
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1 Varughese
2 page 7, Dr. Varughese. That's where we're
3 looking. Not on that page.
4 A. OK, yes, yes.
5 Q. OK? -- "based on the testimony and
6 evidence presented, the Committee unanimously
7 finds and concludes that the Department's actions
8 to suspend and terminate Dr. Varughese from the
9 pathology residency program were clearly supported
10 by the testimony and other evidence and were
11 clearly not arbitrary and capricious."
12 Is that what that says?
13 MR. WRONKO: Objection to form. You
14 can answer.
15 A. Yes.
16 Q. Before the hearing took place were you
17 notified as to who the members of the committee
18 would be?
19 A. Yes, at some point I was, but I was
20 not given a date, but I was notified as to what
21 members would be.
22 Q. In that same communication that
23 notified you as to who the members of the
24 committee would be, did it also tell you that if
25 you objected to any of the members of the
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Varughese

committee serving on the committee you could voice that objection?

A. Right.

Q. Did you object to any of the committee members?

A. Well, I didn't object to a specific committee member, but I did object to it being overly represented by surgeons.

Q. Were any changes to the committee made as a result of your objection to being overly represented by surgeons?

A. I believe they added at least one woman or several females, but I don't really see any minorities here.

Q. Now we're talking about surgeons.

A. Yes, but they did add -- I believe the surgeon here really is Dr. Martin and Weinfeld, the chairmen of the committee, and Dr. Michael Marin, he's the chairman of the Department of Surgery.

Q. So --

A. I believe my objections were not really heard.

Q. Other than objecting to the fact that

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Varughese

A. It wasn't changed technically. I mean, OK, it was changed so that Dr. Weinfeld -- I think Dr. Harris was initially supposed to oversee the committee.

Q. But Dr. Harris is a surgeon, correct?

A. Right, and then there was the chief resident in surgery who was supposed to be there, Dr. Lowe I believe, and Dr. Genden who is also a surgeon who I worked with a lot.

Q. Dr. Genden is the chair of otolaryngology, correct?

A. Right, he's an ENT, a head, ear and nose and throat surgeon who I worked with also.

Q. So let me understand. So Dr. Harris was originally on the committee and then was removed from the committee.

A. Right. I believe he was no longer the, you know, overseeing the House Staff Affairs Committee at that time.

Q. When you got the notice of who was on the committee, was Dr. Harris one of the members of the committee?

A. Yes, I believe he was.

Q. Was the chief resident in surgery who

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Varughese

you thought there were too many surgeons and they made changes to add non-surgeons, what other objection did you voice or did you make to the composition of the committee?

A. I think I was interested in having it be represented by a bunch of different fields, not just surgery and anesthesiology.

Q. So were you notified as to the reconstituted composition of the committee?

A. Right. They reconstituted it very minorly.

Q. Let me be sure you understand what I'm saying. You get a letter or an e-mail or some communication from the hospital. It says these are the members who have been appointed to the committee, right? The first committee. Right? You've got to say yes or no.

A. Yes.

Q. Then you made the objection to the composition of the committee that you just described, correct?

A. Yes.

Q. And then the committee was changed as you just described, correct?

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Varughese

you just identified, was he or she a member of the committee?

A. Right, she was a member of the committee and Dr. Genden was a member of the committee, and they changed it so that Dr. Weinfeld and Dr. Michael Marin would be on this committee.

Q. I just want to stay with it. So you objected to there being that many surgeons on the committee.

A. Right, they were like half the committee members were surgeons who worked closely with each other all the time and also Melissa Rocco, she's an anesthesiologist, she also works very closely with the surgeons.

So I thought it would be better if it was more representative of the physicians that practice medicine in the hospital.

Q. So after you made that objection, Dr. Harris, Dr. Genden and the chief resident of surgery were removed from the committee, correct?

A. I'm not sure if they were removed or if they decided they did not want to do the hearing.

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Varughese

1
2 Q. Well, they were on the original
3 committee. You made an objection and then they
4 weren't on the next list of committee members that
5 you got, correct?

6 A. Right. There was a new list of people
7 who was overseeing the committee and -- yes.

8 Q. So the committee is now constituted
9 by, when you got the new or the reconstituted
10 committee, it was Dr. Weinfeld, right?

11 And what is Dr. Weinfeld's area of
12 practice?

13 A. I believe it's orthopedic surgery.

14 Q. And Dr. Bronheim? What's
15 Dr. Bronheim's area of practice?

16 A. He's a psychiatrist.

17 Q. And Dr. Marin?

18 A. He is a surgeon, vascular surgeon.

19 Q. Dr. Gila Leiter?

20 A. She's an OB/GYN doctor.

21 Q. And Dr. Marissa Raymond-Flesch?

22 A. She's peds and internal medicine.

23 Q. And Dr. Melissa Rocco?

24 A. She's an anesthesiologist.

25 Q. So were you notified before the
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Varughese

1
2 the hearing take place as soon as possible so it
3 can be determined whether or not they were
4 interested in rehiring me or not.

5 Q. Dr. Varughese, after you got the
6 decision of the committee, did you appeal that
7 decision?

8 A. This decision? Yes, I appealed the
9 decision.

10 Q. Who did you appeal it to?

11 A. Whoever is listed in this letter as
12 being the individual to direct the appeal to,
13 Dr. Reich.

14 Q. And I will tell you that it's the
15 cleverly named Appeal Committee.

16 Did you have a hearing in front of the
17 Appeal Committee?

18 A. Right. There was a hearing.

19 Q. And did you attend the hearing?

20 A. Yes.

21 Q. Were you represented by counsel at the
22 hearing?

23 A. Yes.

24 Q. And did the Appeal Committee render a
25 decision on your appeal?

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1
2 hearing that these were now the members of the
3 committee?

4 A. Right. I was notified very shortly
5 before the hearing that these were to be the new
6 committee members and also I was not given an
7 adequate time or notice for the hearing.

8 Q. But that's not what we're talking
9 about here. Did you make any objection to the
10 reconstituted committee, the members that we were
11 just talking about?

12 A. It was too late at that time and I did
13 not really have time to object.

14 Q. Did you make any objections to the
15 members of the committee at the hearing?

16 A. No, I did not. I didn't think that
17 was an option available to me.

18 Q. When you say you weren't given enough
19 notice of the hearing, when were you given notice
20 of the hearing?

21 A. I believe just a few days prior to the
22 hearing.

23 Q. Did you ask for the hearing to be
24 adjourned because you didn't have adequate notice?

25 A. No. Because I had been insisting that
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1
2 A. Yes.

3 Q. Before the hearing were you notified
4 as to who would serve on the committee?

5 A. Yes.

6 Q. And did you make any objection to the
7 members of the Appeal Committee?

8 A. No, I don't think I did.

9 Q. Let me show you a document.

10 MR. McEVoy: Mark this as Exhibit 55.

11 (Defendants' Exhibit 55, cover letter
12 dated March 7, 2012, from Amelie Trahan to
13 Leena Varughese, Bates No. D-971, marked for
14 identification, this date.)

15 Q. Again, Dr. Varughese, if you would
16 take a look at that document and let me know when
17 you've completed doing so.

18 MR. WRONKO: Same objection I put on
19 the record to Defendants' Exhibit 55 as I
20 made on 54 without elaborating.

21 A. OK.

22 Q. Can you tell me what this document is?

23 A. This is the decision from the Appeal
24 Committee.

25 Q. The decision of the Appeal Committee
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1 Varughese
 2 upheld the House Staff Affairs Committee's
 3 decision, correct?
 4 MR. WRONKO: Form objection. You can
 answer.
 6 A. Yes.
 7 Q. Who is Dr. Nash?
 8 A. Dr. Nash? Ira Nash? He's one of the
 9 doctors there. I believe he's a medical officer
 10 of the hospital.
 11 Q. Do you know what his area of practice
 12 is?
 13 A. I thought it was internal medicine.
 14 I'm not completely sure.
 15 Q. Susan Bernstein?
 16 A. I'd say that she's a licensed clinical
 17 social worker.
 18 Q. And Dr. Jagoda?
 19 A. He's an emergency medicine physician.
 20 Q. Dr. Varughese, are you familiar with a
 21 document called a Summative Evaluation?
 22 A. Yes.
 23 Q. What is a Summative Evaluation?
 24 A. Well, I became familiar with this
 25 document as of I believe January/February of 2011,
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1 Varughese
 2 obtaining this position and the program director
 3 there, Dr. Billie Fyfe, had informed me that she
 4 was interested in hiring me because this position
 5 was essentially a match made in heaven. They
 6 thought I would be a great fit for them, and I
 7 essentially needed this job because it would allow
 8 me to complete my clinical pathology training and
 9 also what remaining anatomic pathology training I
 10 needed.
 11 So along those lines I was interested
 12 in obtaining this position, but when she called
 13 the hospital to request that my records and
 14 everything be transferred over to their program,
 15 it was stated that they would not do such a thing.
 16 They flat out refused.
 17 Dr. Fyfe asked me what is going on.
 18 Why would they do that? I said, well, I do not
 19 know. So she called then again. And they said I
 20 had filed a lawsuit against the hospital at that
 21 time.
 22 And I said, I informed her that I did
 23 not file a lawsuit against the hospital at that
 24 time. Only complained. There was a complaint
 25 that was filed with the EEOC regarding what had
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1 Varughese
 2 2012 actually, January or February of 2012,
 3 following an interview with Robert Wood Johnson
 4 Medical Center, medical school or medical center,
 5 for a position, a fourth-year residency position
 6 that was going to begin in July of 2012.
 7 So when I was at this interview they
 8 were interested in hiring me and they said that
 9 they would like verification of my years of
 10 completed training by the former employer, which
 11 was Mount Sinai Medical Center at that time. And
 12 then I became aware of the Summative Evaluation
 13 document at that time.
 14 Q. So prior to January or February of
 15 2012 when you interviewed at Robert Wood Johnson
 16 Medical Center were you aware that a document
 17 called a Summative Evaluation existed?
 18 A. No, I didn't know.
 19 Q. After you had the interview at Robert
 20 Wood Johnson that you just described, what, if
 21 anything, did you do or what communication did you
 22 have with Mount Sinai?
 23 MR. WRONKO: Form objection. You can
 24 answer.
 25 A. Well, at that time I was interested in
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1 Varughese
 2 occurred since my complaint of gender description
 3 and harassment and retaliation at Mount Sinai
 4 Medical Center. And they told, I believe they
 5 told Dr. Fyfe that I was to drop the complaint if
 6 I wanted my records.
 7 Q. And who did Dr. Fyfe speak to at Mount
 8 Sinai?
 9 A. She said she was speaking to
 10 Dr. Firpo.
 11 Q. Did she say that she spoke to anybody
 12 at Mount Sinai other than Dr. Firpo?
 13 A. She said she -- no, she said she spoke
 14 to Dr. Firpo because he was at that time the
 15 program director. He had been promoted to the
 16 program director position.
 17 Q. What did you do after Dr. Fyfe
 18 informed you of her conversation with Dr. Firpo?
 19 A. I said, well, there is no lawsuit. I
 20 informed her there wasn't a lawsuit. There was a
 21 complaint that can be mediated through the EEOC.
 22 It was an offer that was put forward by the EEOC
 23 to mediate this complaint at that time.
 24 And I'm not at liberty to simply
 25 remove my complaint without a formal mediation
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Varughese

1 process because I was represented by an attorney
2 at that time. And I was shocked that this would
3 be conveyed to a third party as such for a simple
4 request of records of work that I had completed
5 satisfactorily.

7 Q. So did you take any steps to inquire
8 as to getting your records to be sent Robert Wood
9 Johnson?

10 A. Yes.

11 Q. What did you do?

12 A. I spoke to my attorney immediately. I
13 sent him a letter.

14 Q. Just remember, to --

15 MR. WRONKO: You have to be careful.

16 Q. -- repeat Mr. Wronko's wise counsel.
17 Go ahead.

18 A. I sent a letter to my attorney
19 asking --

20 MR. WRONKO: No, no. Don't divulge.
21 Let me stop you again just to counsel you.
22 You shouldn't divulge any communications
23 that you've had with your attorney.

24 Q. So here is what I'm interested in,
25 Dr. Varughese, and it may solve the problem. I'm

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1 not interested in what you may have spoken to your
2 attorney about in connection with efforts to get
3 your records.

5 If your attorney sent a letter to
6 Mount Sinai or if he or she communicated with
7 Mount Sinai, that's not privileged. So you can
8 tell me that my attorney did X, Y or Z to try and
9 get the hospital to release my records. You can
10 tell me I made a phone call to somebody, I sent an
11 e-mail to somebody, I went to visit somebody.
12 Those things you should tell me.

13 Don't tell me about what happened
14 between you and your attorney that resulted in any
15 of those things, because that's not something that
16 I need to know or should know.

17 Do you understand what I just told
18 you?

19 A. Yes.

20 Q. So what, if any, efforts did you make
21 to obtain your records so that they could be sent
22 to the Robert Wood Johnson Medical Center?

23 A. So I informed -- simply I contacted my
24 attorney, told him what had happened and what the
25 circumstances were. And he sent a letter to the

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1 attorney at Mount Sinai Medical Center.

3 Q. And did your lawyer receive a response
4 to that letter?

5 A. We did not -- I did not get a response
6 to that letter for at least a week, perhaps more,
7 longer, and I had also e-mailed the leadership of
8 the hospital requesting that my records be
9 released.

10 Q. Who did you e-mail?

11 A. Well, I e-mailed Dr. Reich who was now
12 the interim president of the House Staff Affairs
13 Committee. I believe I e-mailed Dr. Charney and
14 Dr. Davis and other individuals who I thought were
15 in positions of leadership at the hospital who can
16 intervene, because they're physicians and I
17 understand their work is important to them and
18 their careers are important to them as much as
19 mine is to me, and I thought they would be
20 understanding of that.

21 Q. Did your lawyer ever receive a
22 response to his or her letter?

23 A. A very delayed response, yes.

24 Q. What response was it? Was your lawyer
25 a man or a woman, so I can avoid saying he or she?

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Varughese

1 A. It was a man.

3 Q. So what response did he receive from
4 Mount Sinai?

5 A. He received a response simply stating
6 that they will not send the records.

7 Q. Who did he receive the response from?

8 A. I believe one of the associate general
9 counsel.

10 Q. And did you receive a response to any
11 of your e-mails from the various individuals you
12 just identified?

13 A. Right, Dr. Reich said he would forward
14 my e-mail to the general counsel.

15 Q. Do you know what the hospital's policy
16 is regarding providing a resident's records to
17 another institution?

18 A. Well, it's not really explained
19 anywhere.

20 Q. To come back to kind of where we
21 started, I think, how did you learn that there was
22 a document called a Summative Evaluation?

23 A. I learned about this document as I
24 have informed you from Dr. Fyfe who said, you
25 know, I need a verification of the records and

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Varughese

some sort of transfer from the former program.

Q. And that's where I got confused.

Because you said that, but then what I thought you said was Dr. Fyfe made a request to Dr. Firpo for your records.

A. Right. So she got on the phone. She said, let me call them right now. We want to hire you.

It was a delayed date at that time and for us to go through the, um, what is it? The match process or the ERAS matching process, that matching process we had to, um, they had to put me in the system, that date itself, because it was rather late that I was interviewing with them and they wanted to put me in the system because they were a hundred percent confident that they were going to hire me and they were a hundred percent interested in hiring me.

So they simply needed a good faith effort from the former employer, Mount Sinai Medical Center, given that they had already said that they did not want to rehire me, that I am allowed to continue with my residency in another institution.

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Varughese

Q. So when did you first hear the term "Summative Evaluation"?

A. That was then.

Q. So did you or someone on your behalf make a request for a copy of the Summative Evaluation?

A. My attorney made a request.

Q. And was a copy of the Summative Evaluation provided to you?

A. It was provided to my attorney who then eventually forwarded it to me.

Q. Let me show you a document.

MR. McEVROY: Mark this as Exhibit 56.

(Defendants' Exhibit 56, cover letter dated March 15, 2012, from Amelie Trahan to Leena Varughese and Russell Moriarty, Bates No. P938, marked for identification, this date.)

Q. Have you had a chance to look at that?

A. Yes.

Q. And do you recognize it?

A. It appears to be a cover letter.

Q. It's a letter to you at your address in Brooklyn and a letter to Russell Moriarty, who

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I take it was your lawyer at the time. It's from Amelie Trahan, Assistant General Counsel, and it says: "Please find attached the Summative Evaluation of Dr. Varughese's performance during her period of residency at Mount Sinai," correct?

A. Yes.

Q. You received that letter?

A. Yes.

Q. Let me show you another document. MR. McEVROY: Mark this as Exhibit 57. (Defendants' Exhibit 57, document

headed "Verification and Summative Evaluation of Graduate Medical Education/Training," Bates Nos. P989 and P990, marked for identification, this date.)

Q. Take a look at that, Dr. Varughese, and let me know when you're done.

A. OK.

Q. Have you had a chance to look at it?

A. Yes.

Q. Do you recognize it?

A. Yes.

Q. Tell me what it is.

A. This is the Summative Evaluation.

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Q. Is this the Summative Evaluation that accompanied Ms. Trahan's letter of March 15, 2012?

A. Yes, this was forwarded to me by my attorney at some point.

Q. Before it was forwarded to you by your attorney had you ever seen this document?

A. No.

Q. Did you know that summative evaluations were prepared for residents?

A. No, I did not know until then. That's how it....

Q. Do you know whether this document was ever provided to the Robert Wood Johnson Medical Center?

A. No, I believe it was not.

Q. And what happened to your application for a position at Robert Wood Johnson? I take it you didn't get it.

A. Well, what happened was they said that they needed my records and because of interference they could not hire me.

Q. Who told you that? Dr. Fyfe?

A. Well, Dr. Fyfe indicated as much, that

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1 she could not enter me into the system for the
2 ERAS match because of the obstruction that was
3 going on with Mount Sinai Medical Center and their
4 refusal to make that good faith effort, and then
5 too -- so technically they could not hire me
6 because of that. That's what they said.

8 And they said my residency records
9 were not verified by Mount Sinai Medical Center
10 and that was impressed upon me by Dr. Cadoff.

11 Q. Who is Dr. Cadoff?

12 A. He is the chairman of the Department
13 of Pathology at Robert Wood Johnson Medical
14 Center.

15 Q. What did Dr. Cadoff tell you?

16 A. He just simply said that I couldn't be
17 hired because of Mount Sinai Medical Center's
18 actions.

19 Q. And what you say Dr. Cadoff told you
20 and Dr. Fyfe told you, did they tell you that
21 orally or in writing?

22 A. Well, my communication with Dr. Fyfe
23 on the day of the interview was orally. She did
24 leave me a voice mail eventually that evening
25 informing me that she had yet again attempted to

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1 contact Mount Sinai Medical Center and it did not,
2 you know, she could not get the required documents
3 for me.

5 And then I e-mailed Dr. Cadoff and --
6 I actually e-mail Dr. Fyfe again several months
7 later because I was still in the process of
8 obtaining or attempting to obtain a residency at
9 this time, and this was -- I think the match ran
10 from like the 12th onwards or something along
11 those lines. So I had contacted her again to find
12 out if there was any way she could still, you
13 know, they could reconsider the position and still
14 hire me. So....

15 Q. Did you ever get anything in writing
16 from anyone at Robert Wood Johnson Medical Center
17 telling you why they couldn't hire you into a
18 position in their pathology residency program?

19 A. Right. They said it was because the
20 records were not --

21 Q. Not what they said. Did you ever get
22 something in writing?

23 A. Yes, I got something in writing that
24 said, yes.

25 Q. What did you get in writing?

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1 A. Just a short e-mail saying my records
2 were not being verified by Mount Sinai Medical
3 Center.

5 Q. Who did that e-mail come from?

6 A. Dr. Cadoff.

7 Q. Dr. Varughese, if you look at the
8 Summative Evaluation, do you agree with it?

9 A. I think this has already been
10 discussed ostensibly as part of this litigation
11 and I think you know about my position.

12 MR. WRONKO: No, just answer the
13 question.

14 Q. I can assure you, Dr. Varughese, that
15 I have never asked you anything about this during
16 this deposition. So I don't know what you're
17 talking about. But this is the time to talk about
18 it during your deposition.

19 So do you think that this Summative
20 Evaluation is fair or accurate?

21 A. No, it's not fair, it's not accurate.
22 It's punitive and it's intended to destroy my
23 prospects as a physician, whether it's in
24 pathology or in any other field.

25 In fact, it's intended to prevent me
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Varughese

1 from being hired by practically any company or
2 having any -- holding any job in the medical
3 field.

5 Q. I understand that. Do you think that
6 this Summative Evaluation was prepared, signed by
7 Dr. Firpo, because of the complaint you made about
8 Dr. McCash in December of 2010?

9 A. Yes.

10 Q. Do you think it was prepared for any
11 other reason other than because you made that
12 complaint?

13 A. No.

14 MR. McEVOY: Why don't we take a
15 few-minute break and we'll see what else, if
16 anything, we can accomplish today.
17 (A recess was taken.)

18 BY MR. McEVOY:

19 Q. Dr. Varughese, did there come a time
20 when you reported that other residents in
21 pathology were bringing alcohol to the hospital
22 and consuming it at the hospital?

23 A. Yes, I did report that.

24 Q. And when did you report that?

25 A. I reported that sometime in January.

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Varughese

Q. Of 2012?

A. Right.

Q. And who did you report it to?

A. I reported that to Paul Johnson.

Q. Anybody else?

A. Art Figur.

Q. Anyone else?

A. Then I made the same complaint again to Dr. Fowkes.

Q. When did you complain to Dr. Fowkes?

A. April.

Q. Well, not complaint. When did you report it to Dr. Fowkes?

A. April of 2011.

Q. So was it January 2012 or 2011?

A. 2011, and prior to that I may have, you know, complained to my supervisors about it.

Q. You told me to Mr. Johnson and Dr. Figur in January of 2011, Dr. Fowkes in April of 2011.

A. And within the department I have complained about it to, um, I think I discussed it with my mentor.

Q. That would be Dr. Petersen?

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morning, but I wasn't, I mean, his response and his anger and his behavior was out of context to the given situation.

So I wondered if he was consuming alcohol at work which was disinhibiting him and making him behave in a way that was unprofessional.

Q. Did you tell Mr. Johnson who you had observed drinking at the hospital?

A. Right, it was -- well, I had observed Adrienne Jordan drinking at the hospital around 5 p.m. while still involved in patient care duties for the day. And I believe she had offered to oversee a junior resident at that time as well on the day I observed her drinking and I was concerned about it and I spoke to her about it, and I believe another resident also discussed this issue with her.

Q. Who was that?

A. Jacqueline Hechtman. And Diane Grunis was a junior resident. She was supposed to assist that day and she was also concerned and she approached me and I offered to help her if she needed to instead of Dr. Jordan.

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Varughese

A. Right.

Q. Anybody else that you discussed or reported, I'll call it, drinking on the job other than those individuals -- Johnson, Figur, Fowkes and Petersen?

A. No, it was so widespread.

Q. I didn't ask you if it was widespread. I asked you who you reported it to.

A. That's it.

Q. So in January 2011 what did you tell Mr. Johnson about alcohol on the job, drinking on the job?

A. I just reported that, you know, there was drinking on the job and it was sort of, you know, whenever people wanted to drink they had a drink at work even though they were involved in patient care or patient-care-related duties, and I reported it in the context that I was concerned that perhaps McCash was consuming alcohol on the date that he was attacking me.

Q. That would be December 8th you're talking about, 2010.

A. Right, even perhaps the September event. I know that was really early in the

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Q. When you say that you saw Dr. Jordan drinking at 5 p.m. while she was still involved in patient care activities, what patient care responsibilities or activities did Dr. Jordan still have at 5 p.m.?

A. I mean, I don't even think it was 5 p.m. It was much earlier than that. It was like around 4:30, because she had left and she arrived back with a bottle of rum.

Q. My question is, what patient care responsibilities did Dr. Jordan have at 4:30 or 5 p.m.

A. I'm not sure what service she was on, but I would imagine if you're at work, I mean, you should not be drinking. That's basically Mount Sinai's hospital policy, code of conduct. Drinking is prohibited on the hospital premises and it is something that is informed to all residents when they arrive at the hospital, that there's to be no drinking at the hospital.

Q. When you reported to Mr. Johnson in January of 2011 that you had seen Dr. Jordan drinking on this occasion, did you report to Mr. Johnson that you had seen Dr. Jordan drink on

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any other occasion or just this occasion?

A. That was the occasion where I personally observed her and I also knew she wanted to assist Dr. Grunis with some work that day.

Q. Did you ever observe Dr. Jordan drinking on the job on any other occasion other than the one you just described?

A. No, I have not personally observed her drinking any....

Q. Did anyone tell you that they had seen Dr. Jordan drinking on other occasions?

A. Yes, people have said that.

Q. Who told you that?

A. Other residents.

Q. What were their names, what are their names?

A. I don't remember now, but I remember being distinctly told by several people that she was drinking at work.

Q. Other than Dr. Jordan did you tell Mr. Johnson that you had seen any other resident drinking on the job?

A. Well, I told him I was concerned about Sam McCash.

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Q. I know, you told me that. But other than your concern that Dr. McCash might have been drinking on December 8th and that you had seen Dr. Jordan drinking on this occasion --

A. It was like two weeks before in November of -- I don't know if it was 23rd or something. It was a few days before Thanksgiving holiday that I observed her drinking too. And she said she was very stressed out and she had stopped to drink at work.

Q. You're talking about Dr. Jordan?

A. Yes.

Q. So my question is, other than Dr. Jordan and your concern about Dr. McCash, did you tell Mr. Johnson that you observed any other resident drinking at the hospital?

A. No, I mean, I really haven't. And even Dr. McCash I have not directly observed him drinking, because I don't often participate in these, you know, dementia rounds or their drinking rounds. I don't really get involved in any of that.

Q. Now talking about January 2011, had you observed anybody other than Dr. Jordan

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drinking at the hospital?

A. Other than that? Well, there was a holiday party on December -- I'm not sure what date it was now. But following my rotation there was a holiday party where residents were encouraged to bring alcohol by Dr. McCash again to have this party. I believe there was a list of beverages such as vodka and, I mean, the list just went on about, you know.

Q. Where was this party held?

A. It was in the residents' room, residents' area.

Q. Did you attend the party?

A. Well, I went in because -- I was on autopsy and I was there because Dr. Travino had, you know, me and Dr. Travino were working together, so I went in. And so I thought it would -- because of what had happened just two weeks before, I thought it was important for me to not feel alienated from my cohorts. Because there was a party the weekend before that was abruptly changed from a local pub or something down the street to where I lived to McCash's house or apartment or whatever. And I felt like they were

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already marginalizing me and excluding me from a variety of events.

Q. Were you invited to the party at Dr. McCash, Dr. McCash's apartment?

A. No, I didn't know they had a party at his apartment.

Q. Were you invited to the event when it was scheduled for a local pub?

A. Yes, I was.

Q. How did you learn that it had been changed?

A. Because one of the other residents who was arranging the event said it was cancelled.

Q. So do you believe that it was changed from the pub to Dr. McCash's apartment so as to exclude you from attending?

A. Yes.

Q. What's the basis for that belief?

A. Well, I would most certainly not -- I mean, first I was not invited to this party.

Q. Were all of the other residents in pathology invited to the party?

A. Yes.

Q. How do you know that?

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A. Because they informed me that they were.

Q. So every resident in the pathology department, PGY-1, -2, -3, -4, all told you I was invited to Dr. McCash's party in his apartment.

A. Right, and I think one of my friends or somebody told me that they were invited. I mean, I can't go there. This is a person who is clearly abusive towards me. I'm not going to go to somebody's, you know.

Q. I understand. So you went, you attended the holiday party that you were talking about.

A. Right, I tried to attend the holiday party, but Dr. McCash was being extremely aggressive towards me.

Q. What was he doing?

A. I came in with some snacks and chips and whatever for the party, because I thought, you know, it was going to be, you know, a nice time. It wasn't going to be ridiculous or crazy or whatever, and McCash was being extremely aggressive. He was sitting in the low resident's room and he started saying, Oh, you decided to

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come. Huh? You decided to come. Huh? What did you bring? Is that food? Is that food? What are you doing here? And I was like, what is your problem?

So then, I mean, I was just trying to be friendly towards, you know, there were a bunch of people in my class such as Jessica French who wanted to have this party, and Morency was there I believe. So I was just trying to chat with Jessica French who now works at the medical examiner's office I believe.

So this was what was being directed at me. What are you doing here? What is that? And then I tried to ignore him because I was like this is really, you know, rude and, you know, malicious and aggressive and intimidating towards me. So I was feeling like he was trying to exclude me from the group and my coworkers, and I was like, I need to leave.

So Edward Travino, he told me to just step out with him, and then I left briefly after that because Dr. McCash was stomping his feet, walking around slamming doors. So I left.

Q. How many people were at the party?

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Varughese

A. There were a few people at the party. Quite a few, like maybe 15, 20 people.

Q. Did you have anything to drink while you were at the party? By drink I mean of an alcoholic nature.

A. Right, I went to get some -- I think Diane was having, what was it? Jack and Coke. And she offered to make one for me, so I said OK. And I was going to drink it, but I didn't. I just left.

Q. You mentioned before that -- was Dr. Jordan at the Christmas party?

A. I don't remember her being there.

Q. You said earlier that you saw Dr. Jordan or Dr. Jordan told you she had brought a bottle of Captain Morgan Rum to the hospital?

A. Right.

Q. Was that something you saw or something she told you?

A. Yes, that's something I saw, because I was there and she was having a drink and she offered to give me something. I just said no. I didn't think it was appropriate.

Q. Did you observe any other bottles of
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liquor other than the Captain Morgan Rum?

A. At that time that was the only bottle of rum that was there for a long time. But then I believe after the Christmas party there may have been some leftover wine or something that was left over.

Q. Where was the bottle of Captain Morgan Rum kept?

MR. WRONKO: Form objection.

A. I think in one of the cabinets.

Q. And where was the leftover wine from the Christmas party kept?

A. The same place.

Q. And then you mentioned something about dementia rounds. What are you talking about when you talk about dementia rounds?

A. Right, these are, I mean, basically, you know, like we'll get together in the hospital conference or in the residents' work area with beer or wine or some other alcohol, just call it "dementia." That's where the party gets its reference to dementia, dementia rounds.

Q. You say in your complaint that Dr. McCash solicited by e-mail other residents to

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1 Varughese

2 participate in dementia rounds during which
3 residents would drink hard alcohol and beer during
4 work hours on hospital premises.

5 A. Right.

6 Q. So how many e-mails did you see
7 personally from Dr. McCash making reference to
8 dementia rounds?

9 A. Numerous.

10 Q. Was that one, two, ten, a hundred?

11 A. Maybe like four or five.

12 Q. Were you a recipient of those e-mails?
13 Were they e-mailed to you or were you copied on
14 the e-mail?

15 A. Yes.

16 Q. Were other residents, I take it,
17 copied or sent that e-mail as well?

18 A. Yes, I believe that e-mail was
19 directed at all the residents in the program,
20 whoever was on the pathology residents' e-mail
21 list, as well as the attendings, such as
22 Dr. Bleiweiss, were all cc'd on that particular
23 e-mail list.

24 So I believe everybody was informed as
25 to the dementia rounds and as to, you know, last

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1 Varughese

2 uropathology had asked me to join her because --
3 so I went with her. I didn't drink anything and I
4 left and I did not attend following that, I
5 believe.

6 Q. At the one dementia round that you did
7 attend, how many people were present?

8 A. There was about four or five people.

9 Q. Was Dr. Bleiweiss there?

10 A. No, he was not there.

11 Q. Was Dr. Jordan there?

12 A. No, Dr. Jordan was not there. I think
13 it was before she joined as a resident at Mount
14 Sinai Medical Center.

15 Q. How long did you stay?

16 A. I think I stayed for ten, fifteen
17 minutes and then I left.

18 Q. Did you observe any of the other four
19 or five people who were there drinking?

20 A. Yes.

21 Q. Who did you see drinking?

22 A. I mean, the fellow had a beer.
23 Dr. Fowkes had a beer and --

24 Q. Who is Dr. Fowkes again?

25 A. She's the neuropathologist.

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1 Varughese

2 minute calls for dementia rounds, and so on and so
3 forth.

4 Q. You said Dr. Bleiweiss was cc'd. Were
5 there any other nonresident physicians who were
6 copied or on those e-mails?

7 A. Not that I'm aware of.

8 Q. Where were the dementia rounds going
9 to be held?

10 A. I think --

11 MR. WRONKO: Form objection. You can
12 answer.

13 A. I think they were held at either the
14 conference room that we were using on the 16th
15 floor or in the resident work area. Oftentimes
16 these rounds migrated into resident work area and
17 continued, you know.

18 Q. Did the e-mail indicate what time the
19 dementia rounds were to take place?

20 A. I think they took place at like 6, 6
21 p.m. or so.

22 Q. Did you ever attend any of the
23 dementia rounds?

24 A. Did I? I did attend one of the very
25 first ones. I went because the fellow who was on

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1 Varughese

2 Q. Anybody else that you observed
3 drinking at the dementia round that you attended?

4 A. The one that I attended? Yes.

5 Q. And when was that?

6 A. That was during my first year.

7 Q. Your PGY-1 year?

8 A. Right.

9 Q. So when you say there were maybe four
10 e-mails for dementia rounds, was that during the
11 entire time that you were in the residency
12 program?

13 A. No, the entire time in the residency
14 program there were numerous e-mails, but they were
15 all very sort of not very aggressive e-mails about
16 dementia rounds. They were sort of --

17 Q. All I am trying to figure out --

18 A. I mean nobody e-mailed the day before
19 or the day of and said let's have a dementia round
20 today at 5 p.m. I mean, the only person who did
21 such things was Dr. McCash.

22 Q. What I'm saying is you say in the
23 complaint Dr. McCash solicited by e-mail other
24 residents to participate in dementia rounds.

25 And before I asked you how many

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Varughese

e-mails did you get or were you copied on that was referring to dementia rounds and you said you thought it was about four.

So my question is, four over what period of time?

A. Right. Over the period of time from during my third year as a resident, which was 2000 -- or even the late, you know, second year, third year. Actually, there may have been more. There may have been like ten or maybe even more. I'm not sure. I wasn't keeping track of each and every e-mail and, I mean, I wasn't attending them. I had no interest in attending these dementia rounds at the hospital when easily I could go out with my coworkers to the local bar on the weekend.

Q. When you say in your complaint, he, referring to Dr. McCash, even admitted to taking a, quote, break, unquote, from grossing specimens to drink alcohol, when did Dr. McCash admit to taking a break from grossing specimens to drink alcohol?

A. It wasn't an e-mail. I may have submitted that as part of discovery. It was, um, when he was grossing, he said I'll take a break

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Varughese

from grossing to attend dementia rounds. That's what he said.

Q. You said that's an e-mail from Dr. McCash?

A. Right.

Q. That you were copied on?

A. Yes, I think I was copied on that.

Q. So to be sure I understand it, so the source of your knowledge about that allegation comes from this e-mail that Dr. McCash sent.

A. The e-mail and then from what I've heard about people drinking beer, and so on.

Q. We're talking now about Dr. McCash admitting to taking a break from grossing specimens to drink alcohol.

You told me you know that because it was in an e-mail that he sent that --

A. Right, he didn't say he was going to drink alcohol at this meeting, but he did say he was going to take a break to go to dementia rounds, which included beer and other forms of alcohol. So I assumed that he was going to drink.

Q. I understand. But do you have any other source of knowledge that that is what

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Varughese

Dr. McCash was going to do other than what you saw in that e-mail?

A. Well, I have -- I've been told by other residents that he does drink at these things, and I know for a fact that he drinks a lot.

Q. How do you know for a fact that he drinks a lot?

A. Because I think, you know, several social occasions that I went to he was drinking. And I think he was drinking at work.

Q. Why do you think that?

A. Because like his behavior is just out of -- extremely aggressive, you know, uninhibited.

Q. Did you ever smell alcohol on his breath?

A. I never tried to get that close to him.

Q. Did you ever report Dr. McCash to the Physician Wellness Committee that you thought he might be impaired?

A. Well, I informed the Physician Wellness Committee, which is Dr. Figur, regarding my concerns.

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Q. What did you tell Dr. Figur? You told me what you told Mr. Johnson. Did you tell Dr. Figur the same things that you told Mr. Johnson or something different?

A. Well, they were both at the same meeting.

Q. So it was one meeting with the two of them.

A. Yes.

Q. After you met with Dr. Figur and Mr. Johnson, do you know what, if anything, they did to investigate your report about drinking at the hospital?

A. I believe they came up to the 15th floor to observe for themselves whether or not a bottle of alcohol that I mentioned was there.

Q. And do you know whether they discovered the bottle of alcohol you were talking about?

A. Right, there was like nearly an empty bottle of Captain Morgan rum, and I didn't know about the bottle of wine, but that was also there.

Q. Were you there when Dr. Figur and Mr. Johnson came to the 15th floor?

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2 **A.** Right, I was at my desk. Then I took
3 a picture of the bottle and I sent it to them.
4 **Q.** And then what did they do?
5 **A.** I believe they did nothing. They took
6 no actions against the people who were consuming
7 alcohol, but chose to take actions against me for
8 professionalism.
9 **Q.** When they discovered, as you say they
10 did, the bottle of Captain Morgan's rum and the
11 bottle of wine, what did they do about the
12 presence of alcohol in the cabinet?
13 **A.** Nothing, they didn't take any actions.
14 They left it there.
15 **Q.** They just left it there.
16 **A.** Yes. That's the prerogative of the
17 Physician Wellness Committee at this hospital.
18 **Q.** Did you observe the bottle of rum and
19 the bottle of wine remaining in the cabinet for
20 some period of time thereafter?
21 **A.** I don't know. I wasn't checking.
22 **Q.** Now, when you say that no action was
23 taken against Dr. McCash or Dr. Jordan, what's the
24 basis for that belief?
25 **A.** Well, they were being unprofessional

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Varughese

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2 and they were, you know, technically or
3 potentially consuming alcohol during work hours
4 and there was no reprimand given to them.
5 **Q.** How do you know that?
6 **A.** I know that because they told me that
7 they did not take any actions.
8 **Q.** Who told you?
9 **A.** Dr. Barnett said if he thought he
10 needed to be slapped around we would slap him
11 around too.
12 **Q.** Who is the he Dr. Barnett was
13 referring to?
14 **A.** I think he was referring to
15 Dr. McCash. And then Dr. Figur also confirmed to
16 me that they did not take any actions against
17 Dr. McCash.
18 At the Physician Wellness Committee,
19 the second meeting, when I went to do the urine
20 toxicology screen, ironically I was the only one
21 who had to do a urine toxicology screen, not
22 Dr. McCash, not Dr. Jordan.
23 **Q.** So let me understand. You went to the
24 Physician Wellness Committee to take your
25 toxicology screen and Dr. Figur shared with you

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- 1
2 the fact that there had been no action taken
3 against Dr. McCash.
4 **A.** Yes.
5 **MR. WRONKO:** Form objection. You o
6 answer.
7 **Q.** How did that topic come up?
8 **A.** Well, I asked him what was being done
9 about Dr. McCash and his behavior towards me and
10 if any actions or if he is going to be placed on
11 any reprimand.
12 **Q.** Well, just so you're clear, we're not
13 talking about Dr. McCash's actions towards you
14 about which --
15 **A.** Towards me and his unprofessional
16 behavior and also his loud yelling and screaming
17 at me.
18 **Q.** And now what I'm talking about is,
19 we're talking about drinking on the job and having
20 alcohol on the job, and you said to me that no
21 action was taken against Dr. McCash or Dr. Jordan
22 as a result of having alcohol at work or drinking
23 at work.
24 **A.** Right.
25 **Q.** And I want to know how it is you know

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- 1
2 that no action was taken or no reprimand was given
3 to Dr. McCash.
4 **A.** Because Dr. Figur told me that that
5 was the case.
6 **Q.** Did Dr. Figur tell you that no action
7 had been taken against Dr. McCash based on your
8 complaint about him or no action had been taken
9 against him because of your report of drinking on
10 the job?
11 **MR. WRONKO:** Form objection.
12 **A.** No, he didn't specify, but he said
13 there was no action taken against him, period.
14 **Q.** You said that Dr. Barnett made some
15 comment about Dr. McCash or reprimanding
16 Dr. McCash. Was that in connection with your
17 complaint about Dr. McCash or in connection with
18 your report of his using alcohol at work?
19 **MR. WRONKO:** Form objection.
20 **A.** I mean, I have a feeling that they may
21 be intrinsically linked.
22 **Q.** You also said that Dr. Jordan wasn't
23 reprimanded for having alcohol at work or drinkin
24 at work. How do you know that she wasn't
25 reprimanded?

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2 A. I'm sorry?

3 Q. How do you know that Dr. Jordan wasn't
4 reprimanded, to use your word, for having alcohol
at work or drinking at the hospital?

6 A. How do I know? Well, she was promoted
7 in fact shortly after I reported this incident,
8 she was promoted within a day by Dr. Lento to the
9 chief resident position. She was not reprimanded.

10 Q. So do you draw the conclusion that
11 because Dr. Jordan was promoted to chief resident
12 she wasn't reprimanded about having alcohol at
13 work?

14 A. Right. As soon as I reported this
15 incident, somehow Dr. Lento chose to promote her
16 to chief resident.

17 Q. Do you think there's some connection
18 between your reporting Dr. Jordan having alcohol
19 at work and her being promoted to chief resident?

20 A. Right, I think they did that to
21 protect her, her career and her future, unlike
22 what was done to me which was to discipline me on
23 some premise that I was -- patient (phon) care
24 related lab, which we have already proven to be
25 false.

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2 Q. So what's the basis for your belief
3 that Dr. Lento promoted Dr. Jordan chief resident
4 to protect her career? To protect her career from
5 what?

6 A. Well, to enable her to advance.

7 Q. Did anybody ever tell you that that's
8 why? I mean, I know that's what you think. Did
9 anybody ever tell you Dr. Jordan was promoted for
10 the reason that you just articulated?

11 A. I believe Dr. Jordan was promoted for
12 a lot of wrong reasons.

13 Q. What are the wrong reasons you believe
14 that she was promoted?

15 A. For one, she was being unprofessional
16 and she played a key role in the incidents of
17 December 8th. She was not involved in the one of
18 September 14th.

19 I don't place any great degree of
20 blame on her, but I think she played a role in
21 what had happened. And, you know, and she had
22 clearly lied about her responsibilities, you know,
moonlighting. She was not the primary
24 moonlighter, Paul Azar was, as noted in the
25 schedule, and so on.

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2 So when you already know that somebody
3 is not capable of completely being honest and they
4 essentially choose to promote her and reprimand me
5 knowing full well that's the case.

6 Q. I take it, Dr. Varughese, that you did
7 not agree with the decision to promote Dr. Jordan
8 to chief resident.

9 A. No, I did not. Yes, I had my
10 concerns.

11 Q. And you say in your complaint that
12 there were four other qualified coworkers with
13 seniority over her, and you identified Dr. Chow,
14 Dr. Martinez, Dr. Azar and Dr. Roman as those who
15 are more qualified people.

16 A. And myself as well.

17 Q. And you.

18 A. Yes.

19 Q. So do you think that either you or one
20 of the coworkers you've identified should have
21 been promoted to chief resident instead of
22 Dr. Jordan?

23 A. Absolutely.

24 Q. Was that a position you would have
25 been interested in having?

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2 A. It was never offered to me. Although
3 Dr. Morency suggested that perhaps it would be a
4 good idea for me to be chief resident with her,
5 and she informed me that other residents were
6 having issues in the program as well and she
7 didn't seem to be aware of, you know, she thought
8 it would be a good idea for me to be the chief
9 resident with her.

10 So yes, I considered it and I would
11 have liked to have that position if that was ever
12 available to me, but that wasn't an option that
13 was offered to me and it seems like it wasn't
14 offered to several other people in my class, my
15 cohorts. For what reason I do not other than
16 favoritism towards Adrienne Jordan by Dr. Lento.

17 MR. WRONKO: We're now at 4:45.

18 MR. McEVOY: I'm almost done.

19 Q. You said that you reported the
20 drinking on the job to Dr. Fowkes in April.

21 A. Right.

22 Q. Tell me the circumstances in which you
23 did that.

24 A. Well, I felt that the drinking at work
25 was getting out of hand and it was becoming

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1 Varughese
2 disruptive to my work. I worked right by the
3 residents' room over there. And they wanted to
4 move the party from the 16th floor back to the
5 15th floor where people had work to do. It seems
6 reasonable that I would not want to be in that
7 situation where I have to deal with loud
8 boisterous fellow residents.

9 MR. McEVoy: I have more questions
10 about this, but in light of the time, since
11 it's 4:45 we will adjourn for the day to
12 accommodate travel schedules and we will
13 resume on June 19th.

14 (Time noted: 4:47 p.m.)

15 -----
16 LEENA VARUGHESE

17
18
19 Subscribed and sworn to before me
20 this ____ day of _____, 2013.

21
22 -----
23
24
25
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THE WITNESS: EXAMINATION BY: PAGE:
LEENA VARUGHESE MR. McEVoy 445

DEFENDANTS' EXHIBITS FOR ID: PAGE: LINE:
Exhibit 39, two e-mails 445 25
dated August 2011, Bates Nos.
D-1177 and 1178

Exhibit 40, e-mail dated 454 2
August 16, 2011, from Paul
Johnson to Leena Varughese,
Bates Nos. D-1176 and 1177

Exhibit 41, e-mail string 464 2
dated August 12, 2011, Bates
Nos. D-908 through 910

Exhibit 42, e-mail string 480 17
dated September 7, 2011,
Bates Nos. D-1172 through
1174

Exhibit 43, document titled 491 19
"Policy for Morning
Conference Attendance," Bates
No. D-1185

Exhibit 44, series of 498 2
e-mails

Exhibit 45, series of 499 24
e-mails, Bates Nos. D-1151
through 1154

Exhibit 46, e-mail string 510 24
between Adrienne Jordan and
Leena Varughese, dated
September 12, 2011, Bates
Nos. D-1378 and 1379

Exhibit 47, e-mail dated 544 20
September 15, 2011, from
Adolfo Firpo to
Dr. Varughese, Bates No. P426
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CERTIFICATE

STATE OF NEW YORK)

: ss.

COUNTY OF SUFFOLK)

I, THOMAS R. NICHOLS, a Notary Public
within and for the State of New York, do
hereby certify:

That LEENA VARUGHESE, the witness
whose deposition is hereinbefore set forth,
was previously duly sworn and that such
deposition is a true record of the testimony
given by the witness.

I further certify that I am not
related to any of the parties to this action
by blood or marriage, and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 27th day of June, 2013.

THOMAS R. NICHOLS

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Exhibit 48, e-mail dated 555 21
September 16, 2011, from
Adolfo Firpo to Leena
Varughese, Bates Nos. D-934
and 935

Exhibit 49, two e-mails 571 24
dated September 16, 2011 from
Dan Hughes to Leena
Varughese, Bates Nos. P430
and P431

Exhibit 50, e-mail dated 594 23
September 20, 2011, to Paul
Johnson and Caryn
Tiger-Paillex from Leena
Varughese, Bates No. P432

Exhibit 51, e-mail dated 612 14
September 21, 2011, from Paul
Johnson to Leena Varughese,
and e-mail dated September
20, 2011, from Leena
Varughese to Paul Johnson,
Bates No. P427

Exhibit 52, letter dated 625 14
September 21, 2011 to Leena
Varughese from Carlos
Cordon-Cardo and Adolfo
Firpo, Bates Nos. P853
through P858

Exhibit 53, letter dated 630 13
September 28, 2011, to Dr.
Michael T. Harris, from Leena
Varughese, MD, Bates No.
D-1407

Exhibit 54, letter dated 632 8
December 2, 2011, from Steven
Weinfeld, M.D., to Dr. Leena
Varughese

Exhibit 55, cover letter 642 11
dated March 7, 2012, from
Amelle Trahan to Leena
Varughese, Bates No. D-971
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Errata Sheet

Subject: Transcript of day #3 of deposition of plaintiff, Dr. Leena Varughese, which was conducted on June 13, 2013

PAGE	LINE	CORRECTION
447	13-14	Correct "that's in defectus (phon) of 15, then some --" to "that went into effect on August 15th 2011,"
448	17	Change "." to ","
450	20	Correct "Blevin" to "Blouin"
450	25	Correct "Crewness" to "Grunes"
455	21	Correct "of a" to "up a"
458	10	Correct "August 2011" to "August 11, 2011"
462	22	Correct "Blau" to "Blowe"
463	6	Correct "Blau" to "Blowe"
463	15	Correct "Blau" to "Blowe"
464	13	Correct "Blau" to "Blowe"
467	19	Correct "know" to "knew"
468	15	Correct "she" to "he"
468	16	Correct "she" to "he"
478	4	Correct "Berzhai" to "Birge"
484	5	Correct "I had already elected, I had already chosen" to "had been scheduled for me"
485	24	Delete "very"

PAGE	LINE	CORRECTION
487	20	Add “what happened? Firpo-Betancourt is a lying, untrustworthy, unprofessional, unethical, racist, and sexist bigot who should not have been the director of educational activities or the program director of a residency program that oversees the education of future pathologists, which is what I thought of Patrick Lento when he failed to intervene on my behalf to prevent harassing and discriminating actions against me, but supported and participated in retaliation and further discrimination and marginalization.”
489	15	Insert “another resident coworker” after “discretion”
489	15	Correct “but” to “and”
490	23	Correct “google” to “new policy”
517	6-7	Correct “that has not been substantiated” to “had been produced to substantiate their false allegations”
519	6	Add “I had reasons to be concerned about my well-being when I worked at Mount Sinai Medical Center.” in place of “...”
531	16	Correct ‘dermati” to “dermato-”
541	23	Correct “so, you know, work” to “so, I was at work”
552	6	Correct “a” to “to be”
566	24	Add “threatening to my future and career that I worked towards because of the defamatory and false allegations and claims being made and expectations placed on me that was not placed on my coworkers such as Jordan and McCash or those that did not engage in protected activities.” in place of “...”
574	4	Correct “too” to “two”
582	16	Delete “not”
583	16	Correct “forced” to “only allowed”
583	24	Correct “I have never met” to “I have met few times”
620	22	Correct “Fersch” to “Fersh”
620	25	Correct “Fersch” to “Fersh”
624	19	Correct “Fersch” to “Fersh”

PAGE	LINE	CORRECTION
646	2	Correct "description" to "discrimination"
652	11-12	Change to "Not at that time when the opportunity for employment remained available to me."
657	10	Correct "ostensibly" to "already"
661	21	Correct "Grunis" to "Grunes"
661	25	Correct "to" to " , "
664	19	Delete "not"
665	16-19	Correct to "autopsy, so I had went to work only to check out if one of my cases was properly signed out. While I was there, I noticed Ted Trevino and I spoke to him briefly"
667	24	Correct "low" to "sofa"
669	9	Correct "OK" to "no"
669	10-11	Correct "And I was going to drink it, but I didn't" to "I didn't want to drink anything alcoholic beverage. I saw McCash stomping his feet and slamming doors around me when I was talking to Grunes, and soon after, I just left with Ted Trevino."
670	19	Correct "we'll" to "they"
671	11	Correct "four or five" to "twenty or more"
673	2	Correct "uropathology" to "neuropathology"
674	15	Delete "not"
675	23	Correct "wasn't" to "was"
683	23	Correct "I was" to "there was"
683	24	Correct "labs" to "lapse"

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1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 -----X
5 LEENA VARUGHESE, M.D.,
6 Plaintiff,
7 vs. 12 Civ. 8812(CM)
8 MOUNT SINAI MEDICAL CENTER,
9 PATRICK LENTIO, M.D., CARLOS
10 CORDON-CARDO, M.D., ADOLFO
11 FIRPO, M.D., IRA J. BLEIWEISS,
12 M.D. and ABC CORP. 1-10, and
13 JOHN DOES 1-10,
14 Defendants.
15 -----X
16
17 July 8, 2013
18 10:07 a.m.
19 Volume IV
20
21 Continued deposition of LEENA
22 VARUGHESE, held at the offices of Edwards
23 Wildman Palmer LLP, 750 Lexington Avenue, New
24 York, New York, pursuant to Notice, before
25 Thomas R. Nichols, a Registered Professional
Reporter and a Notary Public of the State of
New York.

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2 A P P E A R A N C E S :
3
4 LAW OFFICES OF RONALD J. WRONKO, LLC
5 Attorneys for Plaintiff
6 134 Columbia Turnpike
7 Florham Park, New Jersey 07932
8 BY: RONALD J. WRONKO, ESQ.
9
10 EDWARDS WILDMAN PALMER LLP
11 Attorneys for Defendants
12 750 Lexington Avenue
13 New York, New York 10022
14 BY: RORY J. McEVOY, ESQ.
15 JULIE L. SAUER, ESQ.
16
17 ALSO PRESENT:
18 RAJIT MALLIAH
19
20
21
22
23
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25

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1 Varughe
2 LEENA VARUGHESE, called as a
3 witness, having been duly sworn by a Notary
4 Public, was examined and continued to
5 testify as follows:
6 EXAMINATION BY (CONT'D.)
7 MR. McELROY:
8 Q. Dr. Varughe, just to ask you the
9 questions that we always ask you in a deposition,
10 are you taking any medication prescribed,
11 unprescribed, that would prevent you from
12 remembering and answering my questions?
13 A. No.
14 Q. Any other reason you can't answer the
15 questions I'm about to ask?
16 A. No.
17 Q. We left off the last day with my
18 asking you when you reported the drinking on the
19 job, as we've come to call it, to Dr. Fowkes and
20 you had started to tell me those circumstances.
21 So when did you report the drinking on
22 the job to Dr. Fowkes?
23 A. That was April of 2011.
24 Q. Where did you have that conversation
25 with Dr. Fowkes?

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1 Varughe
2 A. I was on a rotation with her. I was
3 on neuropathology at that time and I had spoken to
4 her while I was on that rotation.
5 Q. What did you tell her?
6 A. Well, I just told her that, you know,
7 it was getting more bolsterous and interfering
8 with work on the 15th floor and pathology work in
9 terms of it being moved downstairs to where others
10 were working and it was very disruptive.
11 Q. Was anyone else present when you had
12 this conversation with Dr. Fowkes?
13 A. No. And I also sent her an e-mail as
14 well as, you know, so there were multiple
15 communications with her.
16 Q. Did you ask Dr. Fowkes to do anything
17 about the drinking problem?
18 A. Right. I had asked her to request
19 that, you know, either it not take place anymore
20 or take it to, you know, an outside, you know,
21 venue such as the local bar or something or
22 something along those lines. You know, or even
23 rather than it be at work, so....
24 Q. Do you know whether Dr. Fowkes did
25 anything in response to your telling her about the

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1 Varughese

2 drinking on the job?

3 A. In April of 2011? Well, we had
4 several discussions about it and she explained to
5 me that she didn't think it was really a problem
6 because she had done this before. She thought
7 that it was done regularly in hospitals. Her
8 understanding was this is a normal social event
9 and it should take place. And, I mean, she just
10 thought it was a normal part of being social at
11 work, to drink at work as well.

12 Q. And you also said that you talked to
13 Dr. Petersen about the drinking on the job. When
14 did you talk to Dr. Petersen about it?

15 A. Dr. Petersen, I believe I just briefly
16 mentioned it to him. I didn't really have
17 extended conversation with him because he wasn't
18 really -- as far as I knew, he wasn't really
19 involved in the drinking activities or he didn't
20 attend any of those. It was sort of something
21 that Dr. Fowkes did.

22 She was sort of like, she was supposed
23 to be there, but I don't think she always attended
24 these rounds. But she was supposed to be like
25 sort of overseeing or....

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1 Varughese

2 Q. I'm sorry, when you say that
3 Dr. Fowkes was supposed to be there or overseeing,
4 what are you referring to?

5 A. I mean, like in terms of the, I don't
6 know, this drinking thing, she was -- I think it
7 was sort of something she started or she thought
8 it was like a good idea to start this, like way
9 back when.

10 But then it was something that became
11 more problematic as it went along because people
12 started just abusing it in the sense that it
13 became like sort of like, oh, you'll get an e-mail
14 the day of or the day prior which would simply
15 state, oh, let's have a dementia round and let's
16 drink some drinks because we're having a hard day
17 at work today or yesterday or wherever it was and
18 we're all going to drink at work and vent.

19 These e-mails were mostly sent out by
20 McCash or I think before that maybe McClosevich
21 (phon) had sent this out before. So it was just
22 sort of sent out by certain people who I think
23 felt like they needed to vent or drink at work.

24 Q. Did you ask Dr. Petersen to do
25 anything about the drinking on the job?

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1 Varughese

2 A. Dr. Petersen, no, I don't think I
3 asked Dr. Petersen to do anything about drinking
4 on the job.

5 Q. Other than the people you've
6 identified, Dr. Fowkes, Dr. Petersen, Dr. Figur
7 and Dr. Lento, I think, did you discuss the
8 drinking on the job issue with anybody else at
9 Mount Sinai other than your coworkers?

10 A. No, this was not even a discussion
11 just with my coworkers. I discussed this with Art
12 Figur, who is a hospital administrator. He wears
13 many hats in the hospital, including a hat that
14 has a label saying Physician Wellness Committee on
15 it, in addition to I think sort of like acting as
16 an ombudsman when Barry Stimmel is not there.

17 Q. No, I know that, and you told me about
18 your conversations with Dr. Figur last time and --

19 A. Right. So I'm going to elaborate on
20 my question. You didn't allow me to finish my
21 answer.

22 Q. I just wanted to know if there was
23 anybody else. Go ahead.

24 A. So to complete my answer, it was Paul
25 Johnson as well who was director of human

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1 Varughese

2 resources. You know, he is sort of a liaison
3 between graduate medical education and human
4 resources. And he was officially given that title
5 as of April 2011 where they gave him a new title
6 saying he is a director of, I mean, he is
7 associate or whatever between GME and HR.

8 So those were at least two people who
9 I spoke to regarding this issue outside of the
10 department because within the department I think
11 it was common knowledge that this was occurring
12 and I don't think anybody thought to intervene or
13 put an end to it despite the fact there's a
14 hospital policy saying that alcohol is not allowed
15 on the premises.

16 Q. So other than Mr. Johnson and
17 Dr. Figur and Dr. Fowkes and Dr. Petersen, did you
18 have any conversations with anybody at the
19 hospital about drinking on the job?

20 A. Well, I think Dr. Petersen, I don't
21 know when I mentioned that I spoke to him about
22 drinking on the job. I never had this like
23 extensive discussion with Dr. Petersen about
24 drinking on the job, because he is not directly
25 involved in that. So the person I had the most

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Varughese

extensive discussions regarding drinking on the job was with Dr. Fowkes, Dr. Figur, Paul Johnson.

Q. In your complaint, Dr. Varughese, it says, referring to paragraph 41, it says "at a follow-up meeting relating to the self-reflection exercise Dr. Cordon-Cardo explicitly requested that Dr. Varughese refrain from making complaints about doctors drinking on the job."

Did that happen?

A. Yes.

Q. Tell me the circumstances in which that happened.

A. Well, essentially this was, I think at the first meeting I'm not sure, because there were like about four meetings with Cordon-Cardo. The first meeting was on May 3rd, the second meeting was on May 24th and the third meeting was on July 14th and the next meeting was when I was terminated from the residency program on September 21st. So I met with him four times.

At the first meeting I believe he was in, I am not sure if he discussed drinking at the moment. But the second meeting he definitely, on May 24, 2011, he definitely did state that he is

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not interested in people drinking this or that. I think that was -- he said "this or that" as being very dismissive about this issue. And he didn't want to, you know, he was not interested in that.

Q. How did it come up?

A. How did it come up? Because, well, I had submitted a second reflection and, well, I mean, I was just basically defending myself. My second reflection, you know, elaborated on my point of view regarding what was occurring and as both my reflections are accurate account of what had happened, and the second reflection also was an accurate account of my perception of what was going on and what had happened to me.

And I discussed, you know, drinking as being an issue and I compared myself or I said, well, you know, these people are doing X, Y and Z which is, one, against hospital policy and, two, it's likely, I mean, it's highly unprofessional and he was not interested in that. He was more focused on, you know, what I was writing and how he wasn't happy with what I had written, which was largely unjustified. I mean, you can't really be that critical of someone's self-reflection.

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Varughese

Q. So Dr. Varughese, what I want to do now is ask you some questions about your interrogatory responses. And again, I'm not interested in conversations you had with Mr. Wronko, but do you recall that there were interrogatory -- let me show them to you. It's just as easy.

(Defendants' Exhibit 58, Plaintiff's

Answers to Interrogatories, marked for identification, this date.)

Q. Dr. Varughese, do you recognize the document I've just handed you?

A. Yes.

Q. If you look at the last page, it's your signature?

A. Right.

Q. So one of the interrogatories that you were asked was to, it's actually number 5, is to identify the individuals who you believe retaliated against you for, and there are three different things, but you're alleged, one, complaints of discrimination; two, complaints under the Whistleblower Law and three, exercise of your rights under the FMLA. OK?

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And the response, with regard to one, which is your complaints of discrimination, is all the named defendants.

So what I would like you to do is tell me everything that you believe Dr. Lento did to retaliate against you because you complained about discrimination.

A. That Dr. Lento did?

Q. Yes.

A. Well, Dr. Lento, I mean, this is sort of an ongoing issue with Dr. Lento where I reported that I was being, you know, harassed at work by McCash. I mean, there's no reason for me to believe that his motivation, you know, I was convinced that his motivation for directing that harassment at me was based on my gender and now I have come to believe that it may also have been based on my race or the fact that I'm a woman of Indian descent.

And I reported this issue of, you know, harassment at work to Dr. Lento who immediately sought to protect Dr. McCash without thinking twice, well, you know, should I intervene at this point? What would possibly prevent this

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1 Varughese

2 from happening again?

3 He did not do any of that. Instead he
4 just sought to say, well, you know, I don't know
5 if this happened or not. You're saying this
6 happened, but I don't know.

7 But then Kruti Maniar, a coworker but
8 also a chief resident at that time, also a woman
9 of Indian descent, corroborated what I was saying,
10 which was that McCash was harassing me and McCash
11 also had admitted that his behavior was, you know,
12 essentially harassing towards me and he recognized
13 that as being a problem.

14 But Lento immediately stated that
15 that -- I don't even know if that occurred.
16 Despite being corroborated by another woman of
17 Indian descent.

18 Then my follow-up with Dr. Lento for
19 the next month, two months, did not yield any
20 positive results. In fact, he continued to defend
21 McCash, state that he doesn't know if it occurred.
22 You know, then blamed me, stating that, you know,
23 you deserved to be yelled at. Sometimes people
24 deserve to be yelled at.

25 I mean, it just, that just went on and
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1 Varughese

2 he was not willing to intervene in any way to
3 facilitate a transfer out of a particular rotation
4 to a different institution to just avoid, you
5 know, interacting with this person that I felt
6 like was becoming more and more problematic, and
7 this involved just like I had mentioned McCash's
8 behavior of stomping his feet, slamming the doors
9 and just his general attitude and, you know,
10 negative, you know, intimidation, intimidating
11 behavior that was directed at me when I was at
12 work.

13 Then in December, although I was doing
14 my work as is done by everybody else, which is the
15 utilization of the moonlighter and the per diem PA
16 to complete my work for the day, which is why they
17 are there, and McCash, you know, intervenes,
18 harasses me again and he threatens me, he
19 intimidates me. It's not just a simple like, oh,
20 you didn't do it, so I'm going to report you to
21 someone. It's you're doing something I disagree
22 with. I'm going to say something to somebody.
23 But that's not what he did.

24 He took it upon himself to harass me,
25 follow me around, intimidate me and just go on
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2 this rampage essentially which led me to have to
3 leave my work area and report him to somebody who,
4 like Dr. Bleiweiss who I reported him to,
5 reporting McCash to Dr. Bleiweiss in that same,
6 you know, moment essentially, within a few moments
7 of that time I reported to him.

8 Despite me reporting this and
9 reporting this to the hospital as having occurred
10 and reporting this to Dr. Lento as having
11 occurred, because I sent him an e-mail that same
12 day, but he wasn't there. He was on vacation or
13 whatever it was. Then on Monday, the 13th, that
14 was the first time I saw him after the McCash
15 incident, December 8th, and he already knew there
16 was a history and a pattern of behavior with
17 McCash that I already complained about.

18 Like at least before with the first
19 instance in September and then again following
20 that incident and then the second incident he knew
21 there was a pattern. And Dr. Lento did not think
22 to say that, well, you know, I believe you. I
23 understand that this is a problem and I'm going
24 to, you know, intervene or do what you think
25 should be done, which was to intervene, mediate

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2 and prevent this from going any further. And he
3 didn't take those actions.

4 And then he put me on academic
5 advisement while excusing McCash's behavior yet
6 again. And that was treating me differently, and
7 that's, you know, I considered that to be
8 discriminatory based on my gender and race,
9 because I look at McCash and I see why he is being
10 treated better, which is because he is a male
11 Caucasian or white doctor and, you know, I'm a
12 minority Indian physician who, I mean, who
13 Dr. Lento does not feel compelled to support.

14 **Q.** Anything else Dr. Lento did that you
15 believe was retaliatory or in retaliation for your
16 making complaints of discrimination?

17 **A.** Well, this went on for the rest of the
18 year. So that was like, academic advisement was
19 only the start of, I mean, not even academic
20 advisement, a letter from legal that Melissa
21 Pessin and Patrick Lento, like they signed this
22 letter and they gave me that letter and I don't
23 think they took any actions against McCash and
24 Jordan at that time either. They didn't give them
25 a letter from legal saying don't confront

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Dr. Varughese about anything or don't confront any of your other residents about anything. I mean, it was a blanket statement that was sent to me from legal saying that if I spoke to any of my colleagues that I was going to be terminated.

I mean, then after that this just went on and on. Following that there was the academic advisement, which they knew there was reason to believe that what I was saying was true, and given the circumstances, you know, where McCash was also being unprofessional, they didn't take any actions against him. They only chose to take actions against me. And this went on with the Physician Wellness Committee, which they referred me to like in December, because I think they knew Art Figur was on the committee even.

I think that was one of the reasons that they referred me to that committee, because somehow I think Melissa Pessin has some sort of relationship with Art Figur. I'm not their friend, so whatever it is. So they referred me to Art Figur for whatever those reasons and he, you know, like and then they would all write e-mails about me behind my back, where I was not cc'd on

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the e-mails.

Kruti Maniar who was also a chief resident there was not cc'd on those e-mails either. So, you know, we were not, I mean, they were not -- she was not cc'd on the e-mail. I was not cc'd on these e-mails.

And there was all this like back talk that was going on behind my back which I wasn't aware of even with Art Figur. Like there were like ten or twenty e-mails forwarded to Art Figur regarding how terrible I was as an individual and I'm not a doctor or, I don't know, I don't know what the imaginings and delusions were, but that's what was going on.

And this is all because like I reported McCash as harassing me and I'm trying to defend myself and have a work environment that is like conducive to what I need too as a, you know, person in a residency program at Mount Sinai Medical Center.

And Lento went out of his way to obstruct me from being able to do my work as well. The same, you know, as well as like other people. And if Pat Lento had, as the program director, if

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he had gotten involved then and taken some sort of corrective action I feel like this would not have been an issue. Like, you know, none of this would have occurred.

And that's why, I mean, and then going on with following that after PWC there was like the meeting with Cordon-Cardo and Castaldi. That was also very -- Pat Lento is like we don't really care what happened. This is not what we wanted you to write, and so on. I mean, he didn't like my self-reflection.

Q. Who is he? I'm sorry.

A. Patrick Lento. He didn't like my self-reflection. He thought that I can't -- that was not what they needed me to write, and so on, which was to me that was discriminatory and I think that's -- they didn't like it because I spoke about what actually happened.

Q. Anything else Dr. Lento did to retaliate against you for making complaints of discrimination?

A. Right. He said that I was like not on academic advisement anymore and then he was like you're on academic advisement because we didn't

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like your self-reflection. Then he was supposed to follow up with me for like, I don't know, several months.

And when I did follow up with him he told me that according to everyone I was doing my work and I was being very professional and everyone was satisfied with the work that I was doing. There weren't any problems. And he claims that I didn't follow up with him, which is ridiculous, when I know that I followed up with him several times over the period of academic advisement, and he had informed me that I was according to everyone who he had spoken to that I was doing my work and satisfactorily and there weren't any complaints.

And then he changes that story. As soon as he is with Cordon-Cardo and Castaldi that day, he is like, no, you're not doing your work. You didn't follow up with me. It was up to you to follow up, and so on and so forth, which are all lies because I had already followed up with him regarding a lot of these issues. And he was basically, you know, telling me that it's up to me to decide if the academic advisement is over.

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1 Varughese

2 And then I was like, well, it's over
3 in my mind, and he said it wasn't over, and, I
4 mean, he was giving me like not -- he was not
5 acting as a professional who knew what he was
6 doing in terms of like the ACGME requirements and
7 in terms of educational requirements. He was sort
8 of like all over the place. He had different
9 standards for me. Then he had a different
10 standard for McCash and Adrienne Jordan. I mean,
11 I use these two people as comparators because they
12 were the ones who were directly involved in this
13 incident. And I noticed like he repeatedly, you
14 know, would favor, you know, make favorable
15 decision in their favor while making decisions
16 that were very detrimental to me and my career as
17 a physician.

18 And this goes on to even scheduling
19 issues. I mean, ever since he became program
20 director I found that for me to get the same type
21 of education as McCash or Jordan I would have to
22 make, you know, about ten different requests. I
23 would have to explicitly state that this is what
24 I'm missing. Even though there was a tally and a
25 list of all the different rotations I had, I would

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1 Varughese

2 have to repeatedly write e-mails, you know, break
3 down the lists and say this is what I'm missing,
4 this is what I need, this is what needs to happen
5 for me to obtain X, Y and Z before I graduate.

6 And I felt like Pat Lento was going
7 out of his way to make sure that I'm not getting
8 the requisite requirements even for pathology
9 training.

10 And then that went on into my fourth
11 year. So that's third year and fourth year I had
12 these problems with Pat Lento, which is pretty
13 disparate if you compared my schedule, and that
14 compared to Adrienne Jordan who was getting all
15 sorts of electives and she was being promoted to
16 chief resident status even though everyone knew
17 she was drinking on the job and she had other
18 problems, you know. So they still promoted her
19 and they were using a different standard for me
20 because if I had done any of those things I would
21 have been fired.

22 Q. Dr. Varughese, just so -- I want you
23 to understand the questions. I will ask you about
24 why you thought you were being discriminated
25 against, which is some of what you're telling me

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1 Varughese

2 now.

3 What I'm asking you is why you think
4 you were being retaliated against for making
5 complaints of discrimination. I've asked you
6 about Dr. Lento. You may not be finished with
7 your answer about Dr. Lento. I am going to ask
8 you about the other individuals that you've
9 identified as retaliating against you for one
10 reason or another. And I'm not going to interrupt
11 you. I mean, you can tell me whatever it is and
12 testify to whatever you think, but I want you to
13 tell me everything that you believe that Dr. Lento
14 and the others I will ask you about did to
15 retaliate against you for making complaints of
16 discrimination or for some other reason that we'll
17 come to. And you say whatever you want to say
18 about that and then just let me know when you're
19 finished, OK?

20 A. OK.

21 Q. So if you're finished with Dr. Lento,
22 tell me. If not, continue.

23 A. No, I'm not done yet.

24 Q. OK. Go ahead.

25 A. So then after this whole, you know,

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2 like with the scheduling, that was another aspect
3 of discrimination and retaliation I felt was
4 occurring. Well, at least fourth year with the
5 scheduling I thought that was somewhat
6 retaliatory, that I was not getting the
7 appropriate assignments for my year.

8 Then in terms of further retaliation,
9 the decision to place me on disciplinary action I
10 felt was further retaliation from Dr. Lento,
11 because that letter is written in his first person
12 narrative which says I as so-and-so, as program
13 director, and it's written sort of like, you know,
14 sort of from his perspective, then it's signed by
15 Cordon-Cardo. So, I mean, that's clearly
16 retaliatory.

17 And then he makes all these statements
18 in there which I know to be false because I had
19 followed up with him several times over the course
20 of the academic advisement period. I have
21 e-mails, text messages, et cetera, from Pat Lento.
22 I have notes from him that he left on my desk to
23 call him at his home phone number no less in the
24 middle of the day. I mean, I was in
25 communications with him. There was never -- there

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1 was one miscommunication between me and Pat Lento
 2 which was essentially -- what was it? He wanted
 3 me to appear to his office just before his
 4 vacation. And he had e-mailed me the day prior or
 5 something and said I need you to come here. I
 6 need to have a meeting with you. And I couldn't,
 7 you know, I wasn't sure he wanted to confirm it or
 8 not, the meeting. And so there was some issues
 9 with that particular meeting. But it was
 10 essentially cleared up.

11 Like, I mean, he went on vacation the
 12 following week and after he came back he said, oh,
 13 OK, like, we were going to meet after he came back
 14 from his vacation and I met with him and it wasn't
 15 that -- there was really like no big issue there.
 16 But he is like making it into this like massive,
 17 you know, exaggerating beyond belief about how
 18 important that one meeting was when easily the
 19 meeting was rescheduled the week after.

20 So but this is the kind of, you know,
 21 that's basically the disciplinary action. The
 22 disciplinary action just goes on for, you know, I
 23 don't even know. It just goes on for like four
 24 pages or something about whatever they thought.

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1 I mean, that was all substantiated in
 2 my opinion. And it was really retaliatory. I
 3 mean, it was unsubstantiated that I feel like it
 4 was completely retaliatory, and that was like in
 5 July of 2011.

6 And then after that I found out that
 7 he was writing all these e-mails behind my back
 8 about me taking advantage of a leave of absence
 9 through FMLA to go on some conference or
 10 something. And he didn't want my conference paid
 11 for because if I'm on leave, so on and so forth.
 12 I mean, this is really outrageous. Like, I can't
 13 believe this is a professional.

14 If you're professional, you don't
 15 conduct yourself like that. You can't sit around
 16 and say this person is going to go on leave and
 17 take advantage of us.

18 Meanwhile, in my three, four years
 19 there I've never asked for a penny from them.
 20 I've never asked them to support me on any of my
 21 conferences that I attended. I have not asked
 22 them to support me monetarily in any other
 23 educational ventures.

24 But I know for a fact Adrienne Jordan

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1 and McCash have been supported to the tune of like
 2 maybe ten, \$10,000, maybe even 15, \$20,000, with
 3 their conference attendances, hotel stays and a
 4 variety of other issues, and this is my one
 5 educational conference in four years where it's
 6 essentially a review course that's supposed to
 7 remediate material that I've not learned in my
 8 residency program because of this disorganization
 9 and other problems, and he's acting like, oh, I'm
 10 trying to take advantage of them.

11 I mean, that's clearly -- to even make
 12 that statement it's retaliatory and, I mean, it
 13 just speaks volumes about his professionalism
 14 which is like nonexistent.

15 And then with the firing/termination
 16 thing, he wanted to have me fired. And
 17 essentially because, I mean, I don't even know
 18 why. Because I -- he writes some e-mails. I
 19 mean, not I don't know why. I mean, I know why.
 20 Because he is retaliating against me based on his
 21 prejudices against me which is that I am a woman
 22 of Indian descent.

23 And he, you know, what does he say?
 24 He like, there was some e-mail that Adrienne

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1 Jordan wrote about how she is afraid of me or
 2 something. And next thing I know Pat Lento
 3 substantiates that. He immediately substantiates
 4 that and says there are intimidation issues here.

5 OK, I was talking about harassed at
 6 work which has been corroborated and substantiated
 7 by several people and he doesn't think it's
 8 serious. I am not even there, not even speaking
 9 directly to Adrienne Jordan and he thinks there is
 10 some fear and intimidation issues that he's like
 11 deluded himself to believe as being true. And
 12 then he supports that statement and he encourages,
 13 he substantiates it. He probably encourages
 14 Adrienne Jordan to say these things, and next
 15 thing I know I'm fired.

16 I mean, that's retaliatory. For even
 17 to substantiate something so outlandish it is
 18 retaliation and extremely defamatory and it's not
 19 something anybody ever mentioned to me as her
 20 being intimidated by me or terrified of me or
 21 threatened by me at work. I mean, I had no idea.

22 And these are all like substantiated
 23 by Pat Lento. Even though meanwhile I'm basically
 24 being, you know, pretextually terminated from my

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1 Varughese
 2 employment and that's being done by him to a large
 3 degree.
 4 Q. Are you done yet?
 5 A. No, I'm not done yet. Actually, I
 6 just remembered something.
 7 Q. Go ahead.
 8 A. Then at the first hearing he was, what
 9 do you say? He said that I never answered his
 10 pages and all this nonsense. Like that's all
 11 completely defamatory. I've been on call with him
 12 for autopsies and a variety of issues over the
 13 years. He would page me even though I'm not even
 14 the resident who was on call and ask me to do work
 15 for like other male residents there. I received
 16 at least two or three pages from him when I was
 17 working with a number of male residents.
 18 This never occurs when I'm partnered
 19 with a female resident. I was partnered with the
 20 male resident Lanjing Zheng, and he's, I mean, I
 21 believe he graduated two years before me from the
 22 residency program. And I was partnered with him
 23 on some autopsy rotation, and I believe he lives
 24 in Westfield, New Jersey. He lived in Westfield,
 25 New Jersey at that time.

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 2 And I think Dr. Lento knew that or
 3 something, and he knew that the case was coming in
 4 because a friend of his said, Oh, my patient died
 5 and I -- she died at home or something from
 6 metastatic breast cancer, and Pat Lento wanted me
 7 to come in and do this case.
 8 First, this is a patient who died at
 9 home. We shouldn't be doing this case at the
 10 hospital. If it needs to be done, it should be
 11 referred to the appropriate third party unless we
 12 were doing this as a private case. He didn't want
 13 to do that.
 14 Then he wanted to page me, and I'm
 15 like I'm not even on call today. Like you have to
 16 call Dr. Lanjing Zheng, and he's like, Well, you
 17 know, I want you to do this case. Like why don't
 18 you go in.
 19 So I like drive myself in. I get
 20 there and it's like this case or this woman who
 21 died at home and I meet her doctor who is like a
 22 friend of, personal friend of Dr. Lento's and he's
 23 like, Yes, we need this case done. It's a woman
 24 who died of metastatic cancer.
 25 I was like, well, clearly it's a woman

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1 Varughese
 2 who died of metastatic cancer. Like what do you
 3 really want me to like diagnose her with at this
 4 point?
 5 Then, two, I'm not even on call and
 6 then, three, I call my attending who's on
 7 surgical, I mean, autopsy that day and I talk to
 8 him and he's like, Why are we even doing this
 9 case? And I'm like, and then I'm like I'm telling
 10 him I'm not even on call for this case, but
 11 Dr. Lento is like essentially forcing me to do
 12 this case because I guess he doesn't want to call
 13 Lanjing Zheng in for whatever reason.
 14 And then I have to finally call
 15 Lanjing Zheng to come in and both Lanjing Zheng
 16 and the attending physician are like, Well, we
 17 should not do this case, because this is not a
 18 case that probably should be referred to us at
 19 this point. But this kind of stuff happened all
 20 the time with Pat Lento.
 21 Oh, there was another time where he
 22 wanted me to do, um, take samples of tissue for
 23 McCash. He is like, Oh, Dr. McCash is doing some
 24 project and I would like you to like just start
 25 taking tissue for him to assist him with this

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 2 project.
 3 I said, well -- and that was a week
 4 when actually McCash was not even at work that
 5 week. I was like, well, even if I do it, he is
 6 not even at work. McCash has never mentioned to
 7 me that he wants me to do any extra work for his
 8 project. McCash never mentioned it. But Lento
 9 was coming to me and approaching me and asking me
 10 to do work for McCash.
 11 The same thing with Zheng, me to work
 12 for Zheng. Like he wants me to do work for other
 13 people, especially like other male residents when
 14 I'm on call with them. I mean, he's, you know,
 15 like this is just like just the tip of the iceberg
 16 with him. Like he just does this kind of cover
 17 for male residents, do this for other people.
 18 And meanwhile if I make a mention of
 19 like me having an issue, he doesn't even intervene
 20 or try to find a way to resolve the issue. He
 21 finds ways to blame me for something that I didn't
 22 even really do.
 23 Q. Are you done with Dr. Lento?
 24 A. Um, OK.
 25 Q. Is that a yes?

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A. Yes.

Q. What did Dr. Cordon-Cardo do to retaliate against you because you complained about discrimination?

MR. WRONKO: Form objection. You can answer.

Q. Or actually I will accept that. What do you believe Dr. Cordon-Cardo did in retaliation for your complaints of discrimination?

A. Cordon-Cardo? Well, I mean, he had just started as I guess the chairman of the department of pathology at Mount Sinai Medical Center on April, in April 2011. And I, my first meeting with him was on May 3rd, 2011, and, I mean, frankly, he should have tried to figure out what the situation was.

I mean, he didn't ask me for my perspective at all. He was more interested in that I didn't do, I mean, I didn't write a self-reflection that was acceptable to them, without really exploring my concerns.

Then he, after that he essentially was actively involved in my termination. He had written a number of e-mails stating, making

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statements that I should be fired for things that everybody else did too.

I mean, to draw an example is, here is the, you know, what is it? Updating duty hours in New Innovations about, you know, there are about twenty residents in the program. There are about like six or seven fellows, you know, fellowship programs in residency there.

So about 80 percent of the people there don't update duty hours until they have to. That's essentially how it's done. And he thought I should be fired for that. I mean, he thought I should not be a doctor anymore because I allegedly did not update my duty hour.

Meanwhile I did update my duty hour in a timely manner. But he thought that was a fireable offense. I mean, this is like the chairman of the department. Like come on.

Then he, you know, he did not want me to speak about, you know, issues such as drinking on the job or even harassment or retaliation. He did not want to discuss any of those issues.

So he facilitated me being terminated from the residency program. Even with the

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termination letter, he signed that letter. I mean, it was written by Pat Lento, Patrick Lento, but it was signed by Cordon-Cardo who was chairman of the department. And he must have read the letter before he signed it. And, I mean, that was clearly like, you know, aiding and abetting in the discrimination and retaliation there.

Q. Anything else?

A. Right. And then when, um, then on July 14th when he gave me the letter he had alleged that he had informed me that I can get some sort of, you know, I can go into the, I guess the committee.

Q. Which letter are you referring to?

A. July 14th. Disciplinary action, final warning or disciplinary action letter. He said I can use the committee.

But he never made that statement explicitly. He just gave me the letter. He said, Oh, it's in the envelope and you can read it when you read it, and so on.

I was like, you know what? I have legal counsel who has already written to the hospital at this point. I believe they sent a

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letter on June 9th or wherever it was and they had explicitly stated that they felt that I was being discriminated against and that was my concern and we would like that to stop and we would like some communication with legal counsel regarding this matter rather than engaging me directly.

And they refused to respect those, you know, requests from my attorney at that time to engage them in any issues that related to what I had already had alleged was discrimination.

So Cordon-Cardo knew about that and he did not comply. And this went on into the termination event. He didn't, you know, he said Oh, they said they were going to provide me with some, you know, excerpts from the house staff manual and some other manuals regarding my rights, my rights to appeal the termination, but they never did. They just gave me the termination letter without any other information even though they claimed that they were going to do that.

And then after I was terminated they, you know, he made all these statements that were really defamatory and untrue. And I think that was all retaliatory.

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2 Q. Anything else about Dr. Cordon-Cardo?

3 A. Well, I mean, he is not, you know,
4 he's not a practicing pathologist. He never did a
5 residency like I was doing my residency in
6 anatomic and clinical pathology. He does not have
7 that background or that experience as a physician
8 who has done a residency. So largely he doesn't
9 even know what that entails.

10 And he is a director of, I mean, he is
11 the chairman of a program that essentially trains
12 20 plus people every year to be a physician and he
13 is essentially for all intents and purposes a
14 researcher or venture capitalist or -- not a
15 venture capitalist. He is an entrepreneur I
16 think, whatever that is. But he's one of those
17 people who -- I don't know if he really
18 understands the clinical significance of pathology
19 as is and its, you know, application to treating
20 and diagnosing disease.

21 Because, I mean, he seemed like I
22 don't know. Like he was just not very, like, I
23 mean, he doesn't -- he seemed pretty cool as to
24 what my work was and what I was doing. And, I
25 mean, not cool, but he didn't seem very educated

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1 Varughese

2 about a lot of aspects of medical residency.

3 Q. Anything else that you believe
4 Dr. Cordon-Cardo did to retaliate against you for
5 making complaints of discrimination?

6 A. Well, I mean, as the chairman of the
7 department he should be aware of all these things
8 and he should be aware of like being able to apply
9 those same standards across the board.

10 Like he was basically stipulating that
11 these different standards to me versus Adrienne
12 Jordan or McCash were OK. Like, I mean, even with
13 the whole drinking thing, the drinking issue, he
14 essentially was making a statement that that was
15 OK, but for me to complain about McCash was not
16 OK.

17 So that is really, you know, I mean,
18 that's retaliatory. Why would you take actions
19 against me only and not want to take actions
20 against something like Adrienne Jordan or McCash
21 or other people who were not presenting? There
22 were a lot of people who did not present their
23 conferences or who did not attend lectures. Why
24 would you not take actions against those people
25 too? Like, why only take actions against me?

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2 Q. Anything else about Dr. Cordon-Cardo?

3 A. If I remember anything I'll add to
4 that.

5 Q. Just so you know, the time to do that
6 is now. So if you want to think about it, take
7 your time, but this is the appropriate time to
8 tell me whatever it is you believe
9 Dr. Cordon-Cardo did that was in retaliation for
10 you making complaints of discrimination.

11 MR. WRONKO: You mean while the
12 deposition is still open.

13 MR. McEVROY: Sure.

14 MR. WRONKO: Right.

15 Q. So let's move on. What did Dr. Firpo
16 do that you believe was in retaliation for your
17 complaints of discrimination?

18 MR. WRONKO: Form objection.

19 A. Adolfo Firpo, he was hired I guess in
20 July or whatever, July 2011, and he was supposed
21 to, you know, I don't know. He was supposed to
22 like -- he was giving me misinformation regarding
23 how I could approach a variety of issues within
24 the residency and he changed, you know, he would
25 one minute tell me I could do things a certain way

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2 and then meaning I could -- for instance, he told
3 me or indicated to me that I could attend other
4 conferences and make a note of them and have them
5 count towards my conferences. And then he
6 essentially changed his mind on that.

7 Then in terms of, what is it? The
8 FMLA issue, we had a discussion and he had told me
9 that I could come to work. He was going to
10 accommodate my schedule and, you know, make sure
11 that I wasn't being bothered by or being too
12 harassed by Adrienne Jordan and whatever on one
13 day. The following day he completely changed his
14 story.

15 And I believe that change of opinion
16 from, you know, Thursday to Friday is retaliatory.
17 I mean, if they were not retaliating against me
18 based on my protected complaints, protected
19 activity, he would not have had such a change of
20 an opinion about from one day to the next about
21 how I should conduct myself with FMLA.

22 This is just, you know, these are just
23 like two incidents, but this occurred, I mean, I
24 met with Dr. Firpo like three, you know, like, I
25 don't know. He was only there since like July to

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2 September and that was the time period I was
3 there. And that's like a very brief period of
4 time, you know, he was employed by Mount Sinai
5 Medical Center and I had to interact with him as a
6 supervisor.

7 And he did so many things in that
8 short time period that was clearly unfair and I
9 felt were, you know, put me in a, um, not put me.
10 What is it? That treated me differently from like
11 my coworkers and that was unfair toward me.

12 What was the other stuff that he did?
13 In terms of the elective schedule change, he said
14 I could change it and then -- and it should not be
15 an issue because he already had approval from at
16 least one of the two people involved, and then it
17 seemed like the second person who was involved in
18 the approval also wanted me to change the
19 schedule. So I was not on that particular, you
20 know, so it would accommodate my request.

21 But Firpo was a limiting issue in
22 this. He was a limiting factor. Him and Pat
23 Lento were limiting factors in this and they both
24 decided not to do it. And that's a way to punish
25 me. Because it wouldn't, I mean, it seemed like

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1 Varughese
2 it didn't matter to anybody else but the two of
3 them.

4 So these kind of situations occurred
5 over and over again that led me to believe that I
6 was being retaliated against.

7 Q. Anything else that Dr. Firpo did that
8 you believe was in retaliation for your complaints
9 of discrimination?

10 A. Right, so this goes on into, you know,
11 where I was, you know, with the cytogenetics
12 rotation. I had informed him that I had problems
13 with the cytogenetics rotation and I wasn't happy
14 with my experience on that rotation and it was,
15 you know, I found that I was being harassed when I
16 was on the rotation.

17 There were incidents that occurred
18 during the rotation that was concerning to me and
19 -- he completely ignored it. That's clearly
20 retaliatory in my mind.

21 Then following this whole thing he,
22 you know, with the FMLA like I already mentioned,
23 I felt that was retaliatory, how I should be at
24 work. They were forcing me to change my schedule,
25 change my work, everything, because I had merely

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1 Varughese
2 requested FMLA. That's highly irregular and
3 retaliatory.

4 Then he said that I was having petit
5 mal seizures and making all these defamatory
6 statements about me, which is completely false. I
7 have never had a petit mal seizure. That's a --
8 those are symptoms. That's a symptom. Petit mal
9 seizure is a symptom of very serious medical
10 diagnoses.

11 You can't make statements like that
12 about somebody, especially when you're a
13 physician, without thinking that those have severe
14 consequences. It's extremely defamatory and it's
15 retaliatory.

16 You can't -- I would never make a
17 statement like that about someone. Because I know
18 those carry, you know, those are consequential
19 statements. Especially when you're a physician.
20 But that's the kind of statement that he made at
21 the house staff hearing. Then he made these
22 other, you know, further defamatory statements
23 about me at the House Staff Affairs Committee
24 hearing that were false and fabricated.

25 So those were -- that's retaliation
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1 Varughese
2 for protective complaints. I mean, then, you
3 know, paying out of his pocket for a late fee as
4 opposed to just changing my schedule very
5 slightly. I mean, this is the kind of, you know,
6 I mean, that's not just retaliatory. That's
7 outright discrimination. I found that to be
8 extremely, concerning comment as a professional,
9 and like he makes these sort of statements that
10 are really concerning.

11 Then with the summative evaluation,
12 his signature is on it, and I have never worked
13 with him to that capacity of patient care, the
14 patient care and everything else. I never signed
15 out a case with Adolfo Firpo. I had very minimal
16 interaction with him in terms of pathology work
17 actually. I don't even know if he does pathology
18 work. Like that's how very little I know about
19 his background.

20 So for him to say that I'm
21 unsatisfactory in patient care, that's clearly
22 fabricated and that's one of his delusions. Like,
23 I can't, that's retaliatory. Why would he make
24 those statements up if he wasn't like trying to
25 harm me in some severe manner and cause me severe

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1 Varughese

2 injury with my professional career? Why would he
3 do that? There's no other reason. Because he
4 just made it up. And that's all retaliation.

5 Q. Anything else about Dr. Firpo?

6 A. Nothing. No.

7 Q. What do you believe Dr. Bleiweiss did
8 to retaliate against you for your complaints of
9 discrimination?

10 A. Dr. Bleiweiss, I feel like he did not
11 do anything.

12 I'm sorry, I don't want to put that
13 in.

14 THE WITNESS: Can you correct that?

15 Q. He has to take down everything that's
16 said, but you can correct it.

17 A. I need a break actually. I need to
18 gather my thoughts.

19 Q. You can't take a break while there's a
20 question pending. You have to answer the
21 question, then you can take a break.

22 MR. WRONKO: Take your time to gather
23 your thoughts.

24 Q. But you take a minute.

25 A. I just need a minute to gather my

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1 Varughese

2 thoughts here.

3 Q. Fine.

4 MR. WRONKO: Take a minute.

5 A. (After a pause) So with Dr. Bleiweiss,
6 what he did do was, he didn't follow up
7 appropriately to my complaint of harassment when I
8 was on -- when I requested that he assist me, he
9 did not follow up appropriately at that time.

10 Then he -- I thought he had reported
11 me to Dr. Schiller for asking that I be, my
12 schedule be slightly changed to accommodate, you
13 know, my concerns of, regarding what had occurred
14 when I was at, you know, on December 8, 2010.

15 And then following that, he, you know,
16 reviewed me negatively that month. I believe he
17 reviewed me negatively after the rotation was
18 over. And it was, um, so I thought that was
19 largely due to this incident and also because
20 there weren't any other patient care related
21 issues that month.

22 Q. When you say this incident, what are
23 you referring to?

24 A. December 8, 2010.

25 Q. OK.

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1 Varughese

2 A. And he had reviewed me negatively for
3 that month when everybody else had reviewed me
4 favorably. Actually, that work for that month was
5 going fairly well. I didn't have any issues with
6 any of my supervisors. I mean, I worked with
7 like, I don't know, like, when I was at Mount
8 Sinai Medical Center I worked with like it must be
9 like at least 40 plus supervisors.

10 So, I mean, I didn't have -- all the
11 supervisors that I was working with reviewed me
12 favorably for my work that month and Dr. Bleiweiss
13 did not review me favorably, and then his
14 commentary was that, like, you know, sort of
15 diminishing the significance of what had occurred
16 to say that I'm not getting along with my
17 colleagues when in fact that wasn't the problem.
18 I was actually being harassed by my colleagues.
19 And I was requesting that I have some sort of, you
20 know, mediation relating to that or some sort of
21 intervention by a supervisor.

22 And he was a supervisor who was there.
23 And he didn't really intervene and he didn't try
24 to, you know, going forward, he didn't try to
25 assure that that wouldn't occur again.

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1 Varughese

2 Q. Is there anything else about
3 Dr. Bleiweiss?

4 A. Right, so then, going forward, I do
5 suspect that he was actually trying to, um, trying
6 to, I don't know, railroad me. Meaning there were
7 e-mails and stuff he was writing that -- well, at
8 least I only know of the e-mails that I have seen
9 from discovery, but it appears that he has been,
10 you know, pretty involved in like with certain,
11 you know, issues that occurred and that I was
12 cited for, such as the Robert Guarino issue, where
13 Robert Guarino who was working with Dr. Bleiweiss
14 cancels his presentation and it was perfectly
15 fine.

16 I mean, there was no reason why he
17 should have cancelled his presentation. It was
18 something he knew about for like at least a month
19 and it was OK for him to cancel his presentation
20 and I was assigned in his place the day before to
21 present.

22 And then Dr. Bleiweiss, you know,
23 thinks that it was really, you know, he said
24 something about me not presenting. But he never
25 mentioned anything about Robert Guarino not

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1 presenting at the last minute. Like he is
2 definitely applying a different standard to me.

3 **Q.** And other than the e-mail you just
4 referred to or e-mails you just referred to is
5 there any other reason why you suspect
6 Dr. Bleiweiss was trying to, to use your word,
7 railroad you?

8 **MR. WRONKO:** Form objection. You can
9 answer.

10 **A.** Right, so he was, um, well, he was at
11 that, I don't know, what was it? Let me think
12 about this for a minute.

13 **Q.** Take your time.

14 **A.** (After a pause) Dr. Bleiweiss was also
15 involved in the whole GYN -- when I was in GYN
16 rotation in May 2011, he was involved in that
17 incident where he was accosting my supervisor.

18 Yes, Dr. Bleiweiss is my supervisor,
19 but the physicians that, you know, the attending
20 pathologists, board certified pathologists that
21 I'm working with, they are also my supervisors.
22 He does breast pathology. They do GYN pathology,
23 and essentially at Mount Sinai Medical Center
24 these are separated now. So it doesn't really

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1 overlap much at all.

2 And Dr. Bleiweiss was going and, you
3 know, accosting my GYN supervisors with claims
4 that I wasn't doing my work and, you know, they
5 had better write a negative evaluation of me. He
6 was -- he was like actively telling them to write
7 negative evaluations about me, to, you know,
8 informing them that I'm not doing my work. All of
9 which was false.

10 I mean, but he was creating this
11 environment for me where it was becoming very
12 hostile, where I had one supervisor on one end
13 going to my other supervisor who was doing -- but
14 I'm on a different rotation, merely because I'm in
15 the same hospital to say negative things about me
16 and reporting that I'm not doing my work when I'm
17 already communicating with the GYN people about
18 the work that I'm doing.

19 And there weren't any problems until
20 Dr. Bleiweiss got involved. Before that we didn't
21 have any issues. As soon as Dr. Bleiweiss got
22 involved I started having problems on the
23 rotation, with people saying I'm, you know,
24 alleging that I'm not doing my work or whether

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1 it's, you know, allegations that I'm not doing my
2 work or whether my supervisor is crying at work
3 saying I'm being told to write negative
4 evaluations, that I'm really stressed out and I
5 can't do this.

6 I mean, this is not a good work
7 environment for anyone and Dr. Bleiweiss was
8 causing all these problems.

9 **Q.** How do you know that Dr. Bleiweiss
10 asked your supervisors during your GYN rotation to
11 write negative evaluations of you?

12 **A.** How do I know? I was told. I was
13 told that Dr. Bleiweiss had -- Dr. Kalir told me
14 that Dr. Bleiweiss had approached her when she was
15 at work to, you know, tell her that I didn't do my
16 work one day.

17 And she said, like, Is that true? I
18 was like, No, of course not. Because we had
19 already discussed all the work we should do that
20 day. There was no issue of me not doing any work.
21 And he had said that I hadn't done my work even
22 though he has no clue what goes on in GYN. He's a
23 breast pathologist. He doesn't know what goes on
24 in GYN. And he is like just making up stuff and

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1 going and bothering her.

2 Then she's crying, and then -- what
3 else did he do? He was very disruptive that
4 month.

5 **Q.** My only question, Dr. Varughese, is
6 how do you know that Dr. Bleiweiss instructed your
7 supervisors in the GYN rotation to write negative
8 evaluations and you told me that Dr. Kalir told
9 you that.

10 Other than Dr. Kalir, did anybody else
11 tell you that Dr. Bleiweiss had asked them or
12 others to write a negative evaluation about you?

13 **A.** Well, Dr. Kalir was one person
14 definitely. Are there other people?

15 **Q.** Right.

16 **A.** Let me see.

17 (After a pause) Um, well, with
18 Dr. Bleiweiss, I've seen him like, what is it?
19 You know, gossiping with Adrienne Jordan on
20 occasion or even with McCash.

21 **Q.** I take it that Dr. Jordan and
22 Dr. McCash were not your supervisors in the GYN
23 rotation.

24 **A.** Right. I mean, they're not my
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1 Varughese
2 supervisors, but I know that he was, I mean,
3 especially after this incident, after
4 December 8th, like that following week he was, I
5 would constantly find him chitchatting with
6 Adrienne Jordan who is like not even on -- she's
7 not on surgical pathology. She was on neuropath
8 and derm path, I believe. OK? Like and she was
9 moonlighting.

10 Q. So let me ask the question again,
11 Dr. Varughese, so I'm sure I get the answer.
12 Other than Dr. Kalir did anybody tell you that
13 Dr. Bleiweiss had told them or others to write
14 negative evaluations about you while you were on
15 your GYN rotation?

16 A. Right. Well, I mean, well, the only
17 two people, other people on GYN rotation was
18 Dr. Deligdish and Dr. Elisen. So, I mean, did
19 they say anything? No. I didn't even know
20 Dr. Elisen was going to do the evaluation. I was
21 by told Dr. Kalir that she was told by
22 administration and Dr. Bleiweiss also told her and
23 all I know is she was very upset and she was
24 crying at work.

25 Q. Is this Dr. Kalir?

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1 Varughese

2 A. Yes.

3 Q. So Dr. Kalir and the other two
4 physicians you just mentioned, they were your
5 supervisors during GYN rotation?

6 A. GYN rotation. Yes.

7 Q. Just those three.

8 A. Yes, and then after GYN rotation I
9 wasn't even at Mount Sinai Medical Center. I went
10 to the VA, Bronx Veterans Administrative Affairs
11 Hospital. So I was even at the VA. So I was
12 actually off site for two months.

13 Then when I returned was when in
14 August I was working with Dr. Najfeld on
15 cytogenetics rotation. That was the two weeks
16 when I was back at Mount Sinai Medical Center. So
17 I did not have a lot of supervisors following that
18 GYN rotation.

19 MR. WRONKO: I'm sorry to interrupt,
20 but she did ask for a break.

21 MR. McEVOY: Do you want to take a
22 break?

23 THE WITNESS: Yes.

24 MR. McEVOY: OK.

25 (A recess was taken from 11:15 a.m. to

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1 Varughese

2 11:23 a.m.)

3 BY MR. McEVOY:

4 Q. Dr. Varughese, before the break I
5 asked you to tell me what you believed
6 Dr. Bleiweiss did to retaliate against you for
7 making complaints of discrimination.

8 Is there anything else other than what
9 you already told me?

10 A. Right. With the, I mean, what I'm
11 really aware of are the evaluation that he
12 submitted, you know, accosting my supervisors on a
13 different rotation, supervisor anyway, Dr. Kalir,
14 and then the third thing was with the presentation
15 where his fellow Robert Guarino who was scheduled
16 to present for over a month was allowed to cancel
17 at the last minute without any consequences and I
18 was asked to present in his place. Those three
19 things.

20 Oh, then the fourth thing was he was
21 writing e-mails about, you know, me that were
22 pretty defamatory to Dr. Lento. It was like
23 e-mails amongst themselves -- Firpo, Lento,
24 Bleiweiss.

25 Q. Anything else?

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1 Varughese

2 A. No. That's I think it.

3 Q. Let me show you a document.

4 (Defendants' Exhibit 59, document
5 headed "Faculty Evaluation of Pathology A
6 Resident/Fellow," marked for identification,
7 this date.)

8 Q. Have you had a chance to look at that?

9 A. Yes.

10 Q. Can you tell me what this is,
11 Dr. Varughese?

12 A. This is a faculty evaluation of a
13 pathology resident or a fellow. This was
14 evaluated by Ira Bleiweiss and I was the subject.

15 Q. And is this the, again to use your
16 word, the negative evaluation that you were just
17 referring to?

18 A. Yes.

19 Q. So now, Dr. Varughese, would you tell
20 me everything that you believe Dr. Lento did to
21 retaliate against you for making complaints about
22 drinking on the job?

23 A. Dr. Lento?

24 Q. Yes.

25 A. Well, what Dr. Lento did, I mean, I am

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Varughese

not, I mean, I think the problem here is that a lot of the retaliation was related to my complaints of or me engaging in protective activity.

I think drinking on the job was sort of something where my white colleagues were being incriminated, and I think they went out of their way to protect them and treat me. You know, that is the real issue here. It's not that is it retaliation because I complained about people drinking on the job. I don't see it as retaliation for a complaint about people drinking on the job. I see that this like retaliation for engaging in protected activity.

And that when I did discuss people drinking on the job, the first knee jerk reaction from them was to protect my white coworkers, not to take actions against them. I mean, this extends to drinking, unprofessionalism, repeat instances of harassment. So it's about how I'm being treated differently than my white colleagues.

Q. Is what you just said, Dr. Varughese, also true with regard to Dr. Cordon-Cardo,

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Varughese

and, you know, so there wasn't any confusion about what was going to happen going forward.

I didn't see that happen. And I also noted that following those issues Adrienne Jordan was promoted to chief resident position and there was no, you know, there was no disciplinary actions taken against any of these people.

Q. But the question, Dr. Varughese, is, what did Dr. Figur do, if anything, that you believe was in retaliation against you for your reporting to him that these folks were drinking on the job?

A. Right. And I think they were focused on finding me at fault here. I mean, in terms of, you know, the drug tests and all that, I mean, if I'm being drug tested, like I think, you know, McCash should also be drug tested. I think that was retaliatory.

Q. Anything else that you think Dr. Figur did that was in retaliation for your reporting the drinking on the job?

A. Right. Because, I mean, he is the Physician Wellness, he is like heading the Physician Wellness Committee. I would imagine

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Varughese

Dr. Figur and Mr. Johnson?

MR. WRONKO: Form objection. You can answer.

A. Is that true for them as well that they did not retaliate against me for -- I mean, I think when it comes to Dr. Cordon-Cardo or Dr. Firpo, um...

Q. Dr. Firpo is not somebody who you identified in response to that part of the interrogatory. So let me make it easier for you.

A. No, no, I can answer that question. Let me just. I will answer that question.

Q. OK. Go ahead.

A. Right. So with Dr. Figur I mentioned the drinking on the job to him in January of 2011. And, I mean, I'm not sure if he thought to himself he needs to intervene as part of Physician Wellness Committee to see if they should enforce this policy that's within the hospital. There's no alcohol to be brought onto hospital premises.

If I were the administrator what I would do probably would be to send, you know, request that this kind of activity no longer take place and probably confiscate whatever was there

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Varughese

that he would want to as a head of that -- they're really involved with physician impairment, drug abuse, those kind of issues generally, they probably would want to test, have McCash and them tested, but they didn't ask them to test.

Q. Right. You told me that now three times. Is there anything else that Dr. Figur did that you think is in retaliation for your --

A. Right. So I was --

Q. Let me finish. Retaliation means something that he did to you. Not what you think he should have done with other people. What he did to you because you reported drinking on the job. Anything else other than making you undergo a drug test?

A. Right, mandating a drug test would be one. The second thing would be like mandating some sort of psychological evaluation at the hospital itself. That was the second thing. I don't think Jordan, I mean, Jordan or McCash or anybody else who was involved in this whole situation were mandated to do so.

Then going forward, let's see. I think the protective measures that were taken for

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1 Varughese

2 my, these coworkers, I think that, I would
3 consider that as, you know, part of retaliation.

4 **Q.** Anything else that Dr. Figur did that
5 you think was in retaliation for your reporting
6 drinking on the job?

7 **A.** Right. I mean, I was initially
8 referred to Dr. Figur for insubordination or
9 whatever in December. So I think, you know, the
10 hospital was sort of intent on treating me
11 differently and retaliating against me.

12 **Q.** But we're talking about Dr. Figur now,
13 not about the hospital.

14 **A.** Well, Dr. Figur is really
15 representative of the hospital.

16 **Q.** So all I want to know is what
17 Dr. Figur did other than what you told me that you
18 think is in retaliation for you reporting drinking
19 on the job.

20 **A.** Yeah, I mean, I find most of what was
21 done to be also retaliation for bringing forward a
22 complaint against, I mean, engaging in protective
23 activity.

24 **Q.** Dr. Varughese, that's a legal term.
25 OK? And I don't know what you mean by it. What

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1 Varughese

2 I'm asking you is, what else, if anything,
3 Dr. Figur did to you in retaliation for your
4 reporting drinking on the job?

5 **MR. WRONKO:** Just listen to his
6 question. Is there anything else that
7 Dr. Figur did?

8 **A.** Well, I believe, at the House Staff
9 Affairs Committee, he did reveal like, you know,
10 he disclosed what I thought should be like HIPAA
11 protected information regarding my, you know,
12 medical care possibly.

13 I mean, I think he did that to make a
14 point that, make some sort of, you know, statement
15 or point about, I mean, it wasn't really for him
16 to disclose technically to like perfect strangers.

17 **Q.** Anything else Dr. Figur did in
18 retaliation for your reporting drinking on the
19 job?

20 **A.** Like, I mean, I really can't think of
21 anything else right now.

22 **Q.** OK. What did Dr. Cordon-Cardo do, if
23 anything, in retaliation because you reported
24 drinking on the job?

25 **A.** Well, he didn't want me to bring the

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1 Varughese

2 complaint. He didn't want me to discuss people
3 drinking on the job. Then he didn't, you know,
4 with the -- he actively tried to fine me, fire me
5 from the department. I mean, is it because I
6 complained of, I mean, it is because I complained
7 of discrimination. I'm not sure it's because I
8 reported drinking on the job. But, I mean, the
9 drinking on the job shows that while that's a
10 really serious matter, he was not interested in
11 discussing it.

12 **Q.** Anything else that Dr. Cordon-Cardo
13 did in retaliation, that you believe he did in
14 retaliation for your reporting drinking on the
15 job?

16 **A.** I think he tried to help them cover it
17 up. He helped, you know, he wanted to help
18 Adrienne Jordan and McCash, help the department
19 cover up this stuff.

20 **Q.** Anything else?

21 **A.** That's all I can remember.

22 **Q.** What did Paul Johnson do, what you
23 believe rather Paul Johnson did to you in
24 retaliation for your reporting drinking on the
25 job?

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1 Varughese

2 **A.** Paul Johnson, I mean, he's part of the
3 hospital administration I believe and, I mean, as
4 such he knows -- well, he allegedly knows all the
5 hospital policies and everything. He didn't take
6 any action.

7 **Q.** But what, if anything, did he do to
8 you as a result of your reporting drinking on the
9 job, if anything?

10 **A.** Yeah, I can't, I don't really know.

11 **Q.** Now, turning to the FMLA, and you
12 mentioned something about this before, so if you
13 want to repeat it you can, but you don't have to.
14 What did Dr. Firpo do in retaliation for your
15 exercise of rights under the FMLA?

16 **A.** Who?

17 **Q.** Firpo.

18 **MR. WRONKO:** I'm sorry, I am just
19 directing her back to 5 (iii).

20 **Q.** So just so you know, Dr. Varughese,
21 and the record is clear, the response to number 5
22 (iii) are the four people that you identified as
23 people who you believe retaliated against you for
24 your alleged exercise of your rights under the
25 FMLA.

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Varughese

Do you see that?

A. Right. Under the FMLA, OK. Yes.

Q. What I'm going to ask you, the same way I asked you about the discrimination and the drinking on the job, is I'm going to ask you about each of those people.

And starting with Dr. Firpo, who is listed first, what did Dr. Firpo do that you believe was in retaliation for your attempt to exercise your rights under the FMLA?

A. Right. Now, who are we talking about? Who is the person you said?

Q. Dr. Firpo.

A. Firpo, OK. Under the FMLA?

Q. Yes.

A. Well, essentially I had requested FMLA and he had informed me that I can -- initially he had informed me that, you know, I'm going to be at work and I'm not going to be out until -- I'm going to be taking off from work until -- I was going to inform him and that was the initial understanding.

But then he changed this understanding to say that I should not be at work at all and I'm

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Varughese

not allowed to be at work for just requesting the leave. And he did not explain to me why he thought that was the case.

And this essentially went into Monday, Tuesday where I was being told not to be at work, but I was not informed of why I should not be at work when there was no rhyme or reason to that. And I believe that was retaliation against me because that was preventing me from doing my job and it was retaliatory.

And then they fired me and he was involved in my firing. He approved the termination letter and then they said that one of the reasons for my termination was my communications regarding the leave of absence through FMLA. I mean, that's retaliatory.

Q. Anything else that Dr. Firpo did that you believe was in retaliation for your attempt to exercise your rights under the FMLA?

A. Well, those are all the reasons. I mean, as I just mentioned.

Q. What did Ms. Patel, rather, what do you believe Ms. Patel did in retaliation for your attempts to exercise your rights under the FMLA?

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Varughese

A. OK, Ms. Patel was working with Dr. Firpo and she was in contact with administration such as, you know, Caryn Tiger-Paillex, Paul Johnson, Firpo and probably higher ups, because I think she used to work for either Dr. Charney or Dr. Davis.

So I mean, she definitely was involved in this whole thing. And she was e-mailing. I mean, she was seemingly confused about how to even proceed with leave. Then she was telling me that I shouldn't be at work. She was also telling me the same thing that Dr. Firpo was stating.

Q. So regardless of her involvement in this, what did she do that you believe was in retaliation for your attempt to exercise your rights under the FMLA?

MR. WRONKO: Form objection. You can answer.

A. She was doing the same that Dr. Firpo was stating, which was stating that I should (sic) be at work.

She was detaining me in my office against my will on September 20th. She was, you know, she was involved in this whole incident in

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Varughese

that way.

Q. Anything else that Ms. Patel did that you believe was in retaliation for your attempt to exercise your rights under the FMLA?

A. That's all I can think of right now.

Q. What did Ms. Tiger-Paillex do or you believe that she did in retaliation for your alleged exercise of your rights under the FMLA?

A. Right. Well, I spoke to Caryn Tiger-Paillex on September 20th, 2011 after I was detained in Shema Patel's office and I had informed her regarding what I was trying to do to follow up on the leave of absence. And she, you know, she basically -- after that they made a decision to fire me. Even before I could, you know, go see my doctor they made a decision to fire me that day. Even though she knew that I was doing what I should do to follow up.

And then she wanted me to be not at work, which was, you know, I don't know why. I mean, I didn't -- like just because I requested family medical leave doesn't mean I cannot show up to work the next day or I should be requested that I not show up to work.

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1 Varughese

2 Q. Anything else that Ms. Tiger-Paillex
3 did that you believe was in retaliation for your
4 exercise of your rights under the FMLA?

5 A. Well, that's what I can think of right
6 now.

7 Q. Lastly, you identified Marina Lowy.
8 Who is Ms. Lowy?

9 A. She is one of the in-house counsel.

10 Q. At Mount Sinai?

11 A. Right.

12 Q. What did Ms. Lowy do that you believe
13 was in retaliation for your attempts to exercise
14 your rights under the FMLA?

15 A. I think she was, well, I assumed she
16 was involved because on Friday -- the Thursday
17 e-mail from Adolfo Firpo said this is what you're
18 supposed to do. You're supposed to work with your
19 mentor Dr. Petersen who is also your supervisor
20 right now and you shouldn't change your work
21 schedule, so on, on Thursday.

22 On Friday it was a different story and
23 Marina Lowy was cc'd on all these e-mails. So I
24 assumed she had something to do with the decisions
25 that were being made.

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1 Varughese

2 Q. Anything else you believe Ms. Lowy did
3 in retaliation for your efforts to exercise your
4 rights under the FMLA?

5 A. Well, she is in-house counsel, so, you
6 know.

7 Q. You told me that. Anything else that
8 you believe she did that was in retaliation for
9 your attempts to exercise your rights under the
10 FMLA?

11 A. That's all I can think of right now.

12 Q. So now, Dr. Varughese, if you'd look
13 at what is now number 4 on the same page I think
14 you're on, that interrogatory asks you to identify
15 the individuals who you believe discriminated
16 against you based upon your race, national origin
17 and gender, and I think you've talked about your
18 being an Indian woman a number of times.

19 Just so I understand before I ask you
20 the question, is that the basis on which you
21 believe you were discriminated against, because
22 you were an Indian woman?

23 A. Yes, woman of Indian descent.

24 Q. I just wanted to make the questions
25 easier. If you look at number 4, on the page

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1 Varughese

2 here, those are the individuals who you identified
3 who you believed discriminated against you based
4 on the fact that you're a woman of Indian descent.
5 I'm going to ask you the same question I just
6 asked you about retaliation.

7 What did Dr. Lento do or you believe
8 that he did to discriminate against you because
9 you're a woman of Indian descent?

10 A. Dr. Lento?

11 Q. Dr. Lento.

12 A. Dr. Lento, he was treating me
13 differently than he was treating Dr. McCash and
14 Dr. Jordan who were receiving much more favorable
15 treatment in terms of the residency aspects in
16 terms of aspects related to my complaints. In
17 terms of discipline, I was being disciplined for
18 the same thing, you know, things that they were
19 also guilty of. I mean, they were definitely
20 guilty of, and for violating various policies,
21 they were not, you know, McCash and Jordan were
22 not disciplined and I was being disciplined. So I
23 think that has to do with the fact that I'm a
24 woman of Indian descent.

25 Q. Anything else that Dr. Lento did that
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1 Varughese

2 you believe was discriminatory towards you because
3 you're a woman of Indian descent?

4 MR. WRONKO: Form objection. You can
5 answer.

6 A. Yes. I think that academic
7 advisement, that was discriminatory. Because that
8 highlights disparate treatment compared to how
9 Dr. McCash was treated where he wasn't disciplined
10 at all.

11 It also states that Dr. Jordan feels
12 something or, you know, feels a certain way and it
13 defends Dr. Jordan's statements without ever
14 addressing them with me. I mean, that's disparate
15 treatment. That has to do with the fact that
16 they're white doctors and I'm a doctor of Indian,
17 a woman doctor of Indian descent. And this sort
18 of treatment continued throughout the next year.
19 And I had also mentioned some other incidents in
20 one of the questions previously. I mean, I think
21 those apply to this question as well.

22 Q. Dr. Varughese, I know you did make
23 reference to that before.

24 A. Right.

25 Q. I'm not asking you nor do I really
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Varughese

1 want you to repeat what you told me before. But
 2 anything you've said previously that was
 3 discrimination as opposed to retaliation is on the
 4 record, you've said it, and because you don't say
 5 it again doesn't mean you haven't already said it.
 6 So it's on the record. You've said it. So it's
 7 really anything else about Dr. Lento that you
 8 haven't already told me either in response to this
 9 question or in response to a previous question.

10 I just want to have your testimony
 11 complete about what it is you believe Dr. Lento
 12 did to discriminate against you because you're a
 13 woman of Indian descent, OK?

14 A. OK.

15 Q. So we're done with Dr. Lento or not?

16 A. (After a pause) OK.

17 Q. I'm sorry?

18 A. I think we're done for now.

19 Q. What did Dr. Cordon-Cardo do that you
 20 believe was discriminatory because you're a woman
 21 of Indian descent?

22 A. I think what I mentioned previously.

23 Q. Anything else or is that it for the
 24 moment?

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Varughese

1 A. I think that's it.

2 Q. What did Dr. Firpo do that you believe
 3 was discriminatory against you because of the fact
 4 that you're a woman of Indian descent?

5 A. I mean, same things as I mentioned
 6 previously.

7 Q. And what did Dr. Bleiweiss do that you
 8 believe was discriminatory against you because
 9 you're a woman of Indian descent?

10 A. Well, the evaluations and then, I
 11 mean, what I had mentioned previously and that's
 12 all I can think of right now.

13 Q. What did Dr. Schiller do that you
 14 believe discriminated against you because you're a
 15 woman of Indian descent?

16 A. Well, he did make, you know, he made
 17 commentary on India, and he said that, Oh, you
 18 don't know the type of things you'll find in India
 19 or the crazy things you'll find in India.

20 He basically said that almost every
 21 time I made an autopsy -- I was involved in
 22 autopsy presentation. He would say something like
 23 that. Even though like none of my cases had to do
 24 with India or any patients from India. I don't

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Varughese

1 think I even had a single patient from India on
 2 any single autopsy, and he would make this
 3 commentary. It is really derogatory and
 4 discriminatory and racist and I actually had
 5 several medical students who I was working with at
 6 the time approach me and say they were offended
 7 because it was racist.

8 Q. And who were they?

9 A. They were medical students who were
 10 working with me on autopsy service.

11 Q. And what were their names?

12 A. Their names? They're long gone now.

13 Q. That may be, but do you remember their
 14 names?

15 A. I think it was a Dr. Klein and I
 16 remember Dr. Dickinson, Andrew, and several other
 17 medical students.

18 Q. You told me that there were medical
 19 students of Indian descent who were offended.

20 A. No, no, it wasn't medical students --

21 Q. Just medical students.

22 A. No, medical students were not of
 23 Indian decent, would be offended.

24 (Cross-talk.)

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Varughese

1 Q. I got you.

2 A. Medical students of Indian decent
 3 probably may not be as clued in.

4 Q. In your complaint in paragraph 23 you
 5 say "Dr. Schiller remarked to Dr. Varughese during
 6 a conference presentation in random fashion and
 7 without any benefit to the presentation, 'you
 8 don't know the crazy things you find in India.'"
 9 All right?

10 A. Right.

11 Q. When was that? When was that
 12 conference?

13 A. That was over the -- he didn't just
 14 say that once. He said that repeatedly over the
 15 number of years that I was there and I was
 16 involved in autopsies.

17 Q. Because in the complaint it refers to
 18 a conference. Not multiple times. I am just
 19 trying to understand whether he said this once or
 20 as I think I just heard you say more than once.

21 A. Yeah, he definitely did say that more
 22 than once. I remember him saying that like as
 23 early as my first year of residency and I thought
 24 maybe that's just like a random one time thing,

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1 Varughese

2 he's going to say it just because he is trying to
3 be humorous.

4 But then he would say that every time
5 at a conference and he would essentially say that
6 to the point where I, you know, people thought,
7 people assumed that he sort of had some sort of
8 prejudice or bigotry issues.

9 Q. So how many times would you estimate
10 that Dr. Schiller made a comment, either this
11 comment or similar comment, "you don't know the
12 crazy things you find in India"?

13 A. I was on autopsy for six months to
14 seven months in a period of three years. So he
15 must have made that comment, I mean, I think I was
16 working with Eric and -- what's his name? And
17 Andrew. That must have been like my junior year.
18 So that's my third year in working with them.

19 Q. So how many times would you estimate
20 he made that comment during the times you were
21 working with Dr. --

22 A. So he must have made this comment at
23 least like four, maybe more times over the
24 three-year period.

25 Q. And where would he make that comment?

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1 Varughese

2 By that would he make it during a conference? Did
3 he make it while he was talking with people in the
4 hallway? Where would he make that comment?

5 A. No, this was actually in a follow-up
6 conference. It was like a small classroom-like
7 room. And there would be the pathology residents,
8 some doctors who may have had a patient who had
9 autopsy, and, you know, a few medical students and
10 I would -- since it was an informal event, I would
11 just bring the case and everything for review and
12 Dr. Schiller would, you know, so he made these
13 comments when he was, when I was presenting and he
14 was, you know, overseeing the conference.

15 Q. So during these conferences, these
16 four or more conferences when he made the
17 statements you attribute to him, you said he made
18 them while you were making a presentation?

19 A. Right.

20 Q. Did he always make them when you were
21 presenting?

22 A. Right, but I also think he would make,
23 if I was there, like he would see me or whatever,
24 I think he would like make a comment on Indians or
25 India. He did that like, I mean, I think I wasn't

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1 Varughese

2 even presenting once and he saw me and he was
3 like, Oh, you know, India, you know. Just the
4 crazy stuff you see in India. Just those general
5 like racist-type comments.

6 Q. Other than "you don't know the crazy
7 things you find in India," what, if any, comments
8 did he make about India other than "you don't know
9 the crazy things you find in India"?

10 A. That was like his line. Like he has
11 the same line. He has a routine that he does. So
12 he doesn't do like much out of his routine. He
13 sticks to one or two racist commentary. He is not
14 a -- he doesn't have a large array of commentary
15 about anything.

16 Like, every conference he would like
17 stick a scalpel in the spine, of the autopsy case,
18 like, say, well, this person does or doesn't have
19 osteoporosis. He does that with every case. It
20 is sort of like that's what he does.

21 Q. I just want to understand. So in
22 these four or more conferences either when you
23 were presenting or when he would see you and talk
24 to you on four or more occasions, he made the
25 comment about "you don't know the crazy stuff you

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1 Varughese

2 find in India."

3 A. Right.

4 Q. Did Dr. Schiller make any other
5 comments about India or about your being a woman
6 of Indian descent?

7 A. Well, I think the whole DNA thing.

8 Q. You told me about that on a previous
9 day.

10 MR. WRONKO: Form objection. You can
11 answer.

12 Q. But you can tell me again.

13 A. The whole DNA thing, I felt that was
14 sort of, you know, also ties in with the India
15 thing. Because DNA is intrinsically part of who
16 you are and I think to make disparaging remarks
17 about or statements about someone's DNA having to
18 do with anything I think is, especially in a
19 negative context, I think that has something to do
20 with being a woman of Indian descent.

21 Q. Other than the comment about your DNA
22 and the comment about crazy things you find in
23 India, did Dr. Schiller say anything else that you
24 believed or interpreted to be a comment about the
25 fact that you're a woman of Indian descent?

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Varughese

A. Right, then I mean, he didn't really want to know about what happened. I mean, he didn't want to know about my version of my side of the story.

Q. Now we're talking about comments that he made that you interpreted as being about --

A. Well, I think to say that I'm not --

Q. Go ahead, I'm sorry.

A. He is not interested in talking or hearing about what happened from my point of view. I think that all has to do with something to do with me being a woman of Indian descent. Because that's not what he said to Adrienne Jordan and Samuel McCash.

Q. Anything else that Dr. Schiller said that you interpreted or believed was a comment about your being a woman of Indian descent?

A. That's all I can think of right now.

Q. Other than Dr. Schiller, Dr. Varughese, did anybody else at Mount Sinai, and by anyone else, I mean supervisors, members of administration, the people we have been talking about, did anyone else make any comments about the fact that you're a woman of Indian descent?

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A. Did anybody else? No, I can't think of anything right now.

Q. And just to complete the question, anything else that Dr. Schiller did other than these comments you have just told me about? Anything else that Dr. Schiller did that you believe discriminated against you because you're a woman of Indian descent?

A. Dr. Schiller?

Q. I'm sorry?

A. Dr. Schiller?

Q. Dr. Schiller, yes.

A. I mean, that whole incident was, I mean, his commentary, running commentary and -- what else? I mean, I did see him at a conference in October of 2011. I saw him at a conference in Las Vegas. He was a presenter, whatever, and I just saw him once and he gave me the middle finger.

Q. Did you interpret that or believe that to be because you were a woman of Indian descent, that he did that because you're a woman of Indian descent?

A. Yes.

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Q. Why did you believe that?

A. Well, I mean, I worked in that department for like three years. I did all my work. There were never any like patient-related issues. I did what I was supposed to do. Look, I'm like basically fired and he must have known like they are not going to rehire me back or whatever. It seemed like they all knew I was not going to get my job back there and he sees me at a conference and he gives me a middle finger. Like, I mean....

Q. I'm sorry. Was that before or after you were terminated?

A. After I was terminated.

Q. Anything else that Dr. Schiller did that you believe was discriminatory because you're a woman of Indian descent?

A. Right. I mean, I think he was trying to influence, I mean, I don't know what degree of influence he has, but I was told that he was fired from the hospital as the chairman, former chairman, he was essentially fired. He didn't resign or anything. But he was still like, you know, allowed to be actively involved in patient

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care and stuff at the hospital it seems like.

And I mean, I directly observed him just before my first meeting on May 3rd, 2011. He went and had a discussion with Cordon-Cardo and Castaldi.

Q. And do you know if he was talking about you?

A. Well, he didn't have a scheduled appointment and I assumed he was talking about me because he gave me this intimidating, I guess like his demeanor was intimidating towards me.

Q. Anything else that Dr. Schiller did that you believe was discriminatory against you because you're a woman of Indian descent?

A. I can't think of anything else right now.

Q. What did Dr. Pessin-Minsley do that you believe was discriminatory against you because you're a woman of Indian descent?

A. Well, Dr. Pessin-Minsley did not take into account my side of the issue or incidents.

Q. We're talking about December of 2011?

A. Yes, December of 2011, and she was, I think she was present for the September 14, 2011

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1 Varughese

2 incident as well. She was like right outside. So
3 she knew what occurred and she sought to protect
4 McCash at any cost.

5 And I've come to learn that he is
6 essentially working with her currently. Well, I
7 don't know if today he is working with her, but he
8 was working with her on some laboratory medicine
9 fellowship at Memorial Sloan-Kettering.

10 So like she went out of her way to
11 like support McCash even though she knew that what
12 I was saying was true.

13 Q. Anything else that Dr. Pessin-Minsley
14 did that you believe was discriminatory against
15 you because you're a woman of Indian descent?

16 A. Right, and then this continued on with
17 academic advisement, that letter on December 13th,
18 you know, threatening to terminate me from the
19 residency program, onwards to the insubordination
20 claim, which is like completely false obviously,
21 to on and on. She was actively involved in all of
22 this until she left Mount Sinai Medical Center I
23 believe sometime in March of 2011.

24 Q. And what did Dr. Barnett do that you
25 believe was discriminatory toward you because

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1 Varughese

2 you're a woman of Indian descent?

3 A. Well, Dr. Barnett was involved in this
4 whole series of events for actions against me, and
5 he is the DIO, which is like designated
6 institutional official for ACGME purposes, and he
7 is also an associate dean of the medical, of
8 graduate medical education, and he knew that I had
9 serious concerns how I was being treated by the
10 hospital, how I was being treated by the
11 department. You know, I reported to him on a
12 variety of issues and he didn't think to intervene
13 on my behalf ever even though he should have.

14 Like, I mean, after the permanent
15 director, Patrick Lento, like he is the next
16 person to go to in this whole hospital hierarchy
17 and he didn't -- even though he knew like I was
18 telling him the truth, like he still did not
19 intervene on my behalf. If it was Adrienne Jordan
20 or McCash he would intervene on their behalf.

21 Q. Why do you believe that he didn't
22 intervene on your behalf?

23 A. Because I'm a woman of Indian descent.

24 Q. What's the basis for your belief,
25 other than the fact that you are a woman of Indian

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1 Varughese

2 descent, what's the basis for your belief that he
3 didn't intervene because you are a woman of Indian
4 descent?

5 A. What is my basis for that belief?

6 Q. Yes.

7 A. Well, just his -- well, his attitude
8 towards me, which is, you know, which I can say he
9 has verbalized, which is like we're not going
10 to -- if he thought to slap around McCash we would
11 have. And by default that's saying we're slapping
12 you around because we can.

13 And that's essentially his attitude.
14 His attitude has been that we're going to take
15 actions against you because we can. Not because
16 we need to substantiate it. Not because we need
17 to have reason, but because we can.

18 Why is that? Because I am a woman of
19 Indian descent. Would they do this to Julie
20 Chepovetsky or Jacqueline Hechtman or Adrienne
21 Jordan? No, not in a million years. Because they
22 would get slapped around, and they know that that
23 would happen. Because I am a minority and a woman
24 of Indian descent they think they can do this and
25 get away with it.

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2 Q. Do you know whether Dr. Jordan or
3 Dr. McCash or any of the other people you just
4 mentioned ever went to Dr. Barnett to make a
5 complaint similar to the one you made about how
6 you were treated by Dr. McCash?

7 A. No, they never -- they have never
8 complained of harassment. I think what separated
9 me out from them is that I -- we all complained
10 about residency. We all complained about a
11 variety of issues. I don't know who else had
12 complained about drinking on the job, and so on.
13 But I'm the one person who is making complaint now
14 about, you know, essentially discrimination and
15 engaging in activities protected by Title VII and
16 other laws in New York and the city.

17 And I know a lot of this is happening
18 to me because I am doing that. Not because I'm
19 complaining about residency or other issues.
20 Because I know that they are also doing the same
21 thing.

22 Q. So if Dr. Jordan and Dr. McCash to
23 your knowledge never complained about harassmen
24 how do you know that if they had complained about
25 harassment Dr. Barnett would have treated them

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differently than he treated you?

MR. WRONKO: Form objection. You can answer.

A. I don't know.

Q. Anything else that Dr. Barnett did that you believe is discriminatory against you because you're a woman of Indian descent?

A. Right. He also made statements about how, you know, like I'm a threat, and I don't know why he thought I was a threat. To me like all that stuff is like I'm basically asking him to intervene on my behalf to make my work environment better for me so I can essentially finish my year of residency and get on with my life.

And he was like you're a threat. Stop being a threat. That's what the answer is.

And like what does that even mean? Like I don't know. I don't know what that means. This is like crazy. I feel like that's racist. If I wasn't a woman of Indian descent he wouldn't be saying those things to me.

Q. Anything else that Dr. Barnett did that you believe is discriminatory against you because you've a woman of Indian descent?

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A. Yeah, and I think supporting my termination and interference with Family Medical Leave Act. All that stuff, yeah, I think he did that because I'm a woman of Indian descent.

Q. How did Dr. Barnett interfere with your request for FMLA leave?

A. How did he? Well, he supported my termination.

Q. Other than supporting your termination, assuming he did so, is there any other reason you think that --

A. Yeah.

Q. Wait, let me finish. -- that he interfered with your request for FMLA leave?

A. Yes, because you know what? He was cc'd on all those e-mails and he should have known better and he should have gotten involved and put a stop to this, because he is in that position to do so. And he didn't.

Q. Anything else Dr. Barnett did that you believe is discriminatory against you because you're a woman of Indian descent?

A. That's all I can think of.

Q. What did Dr. McCash do that you

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believe was discriminatory toward you because you're a woman of Indian descent?

A. I believe his actions, you know, the shouting, you know, the schedule issues. There's, what is it? What else? The December 8th incident. Then the forwarding of all the e-mails to Figur and Caryn Tiger. I think that was all motivated by the fact that I'm a woman of Indian descent.

Q. Why do you think that?

A. Why?

Q. Yes.

A. Well, because it's to paint me in a negative light, you know, say that, I mean, he was not, some of those e-mails that he was forwarding, he was not even involved in any of those issues. I mean, essentially it is complete hearsay and he thinks it's appropriate to forward it to Art Figur who is completely removed from the department of pathology and who didn't even understand the day to day goings on in pathology. So, yeah, I think he did that because I am a woman of Indian descent.

Q. In your complaint, Dr. Varughese, you

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said that, in paragraph 16, in part, "In fact, upon information and belief, Dr. McCash regularly harassed and directed hostile treatment towards not only Dr. Varughese, but other female staff, as well, while treating male staff at all times with professionalism and courtesy."

And when, in those interrogatories we've been looking at, when you were asked to identify the other female staff you were referring to, if you want to look, it's number 7, you identified Rafaela Morotti, a pediatric pathologist.

A. Right.

Q. What's the basis for your belief that Dr. McCash harassed or regularly harassed and directed hostile treatment toward Ms. Morotti?

A. Well, Dr. Morotti had requested that he do something for her, which, I don't know, they are supposed to send out schedules and updates on schedules. I think that's one of their jobs as a chief resident, and he didn't want to do it.

So he started shouting at her and berating her and this went on for a good few days. Where he was, you know, when I was in the

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1 Varughese
2 residents room he was complaining about her and
3 berating her in front of, you know, the other
4 residents.

5 Q. So this behavior you observed
6 personally?

7 A. Yes.

8 Q. And other than Ms. Morotti were there
9 any other female staff that you were aware of
10 either from your personal knowledge or because
11 somebody told you that Dr. McCash harassed and
12 directed hostile treatment toward you?

13 A. I can't think of.

14 Q. Is Dr. Morrotti a woman of Indian
15 descent?

16 A. No, she is not. I believe she is of
17 Italian descent.

18 Q. And then in your complaint you,
19 paragraph 18, you talk about "Upon information and
20 belief, Dr. McCash never treated Dr. Varughese's
21 male colleagues in a similar fashion. In fact,
22 Dr. McCash would go out of his way to cover for
23 male staff, often at the expense of
24 Dr. Varughese."

25 In response to Interrogatory Number 9,
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1 Varughese

2 Q. When you talk about obstruction of
3 your work by Dr. McCash, what are you referring
4 to?

5 A. Meaning, I could not utilize the
6 moonlighter as I saw fit, which was to gross
7 lumpectomy margins.

8 Q. Are you talking about the incident on
9 December 8th or are you talking about other days
10 as well?

11 A. Well, those -- not on December 8th per
12 se for that, you know, Dr. Chow was given
13 assistance without any interference from
14 Dr. McCash that entire month.

15 Q. When you refer to your situation, I
16 know what you told me happened on December 8th.
17 But were there other days on which you're saying
18 Dr. McCash interfered with your use of
19 moonlighters or just on that day?

20 A. Well, on that day, and then when I was
21 on GYN rotation, I continued to experience, you
22 know, interference with my ability to utilize the
23 moonlighters.

24 Q. When you were on GYN rotation was that
25 interference in your view from Dr. McCash?

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1 Varughese
2 which asked you to identify those male colleagues
3 and male staff, you identified four individuals.

4 A. Right.

5 Q. And so how did Dr. McCash treat
6 Dr. Chow differently than he treated you and go
7 out of his way to cover for Dr. Chow?

8 MR. WRONKO: Form objection. You can
9 answer.

10 A. Sure. Dr. Chow, well, he was, um, let
11 me see. For instance, like Dr. Chow was assigned
12 to some rotations when third year schedule came
13 out and he didn't want to be on some, I think it
14 was an autopsy rotation at Mount Sinai Medical
15 Center, and he had merely requested that he be
16 changed and Dr. McCash immediately accommodated
17 the request without thinking twice about it.

18 I was on surgical pathology rotation
19 with Dr. Chow during December of 2010. Dr. Chow
20 was given moonlighting assistance without
21 Dr. McCash ever interfering or obstructing his
22 ability to use moonlighters or use a per diem PA.
23 That month there was no obstruction to Dr. Chow's
24 work at all. But my work, there was all this
25 obstruction from Dr. McCash that month.

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1 Varughese

2 A. Yes, in my view it was from
3 Dr. McCash, because Dr. McCash was assigned to
4 moonlight during two days during that, those, um,
5 when I was on GYN, and he refused to do the
6 moonlighting work.

7 Q. He was the moonlighter.

8 A. He was the moonlighter, and he refused
9 to do moonlighting work that would in any way
10 assist me with my work.

11 Q. Got you. Anything else that
12 Dr. McCash did regarding Dr. Chow that you believe
13 treated Dr. Chow better than you were treated by
14 Dr. McCash?

15 A. Well, those are the few things I can
16 think of right now.

17 Q. What did Dr. McCash or how did
18 Dr. McCash treat Dr. Azar in a manner better than
19 he treated you?

20 A. Well, in terms of Dr. Azar, there were
21 several incidents where I was on, what was it? I
22 was on autopsy service with Dr. Azar, and we had
23 an issue with, you know, work being either
24 Dr. Azar's responsibility or my responsibility,
25 and it was Dr. Azar's responsibility actually and

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1 Varughese

2 Dr. McCash wanted me to do Dr. Azar's work for
3 Dr. Azar, and he cited that was to facilitate
4 patient care.

5 But Dr. Azar was at work. It wasn't
6 like he wasn't there or anything. He was there.
7 And Dr. McCash still insisted that I do Dr. Azar's
8 work for Dr. Azar.

9 Q. What work are you talking about?

10 A. This is just I think grossing
11 responsibilities.

12 Q. Any other way in which Dr. McCash
13 treated Dr. Azar better than he treated you?

14 A. Right. So he, Dr. Azar I think had to
15 go to, go somewhere for a week when he was on
16 surgical pathology service and he was going to be
17 absent for an entire week and Dr. McCash covered
18 for Dr. Azar.

19 And I think Dr. McCash recruited
20 Dr. Trevino also to cover for Dr. Azar, because I
21 guess Dr. McCash could not cover the whole week,
22 so he actually recruited Dr. Trevino to assist him
23 covering for Dr. Azar, because Dr. Azar wanted,
24 you know, to go somewhere for a week when he was
25 in surgical pathology rotation. And that's

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1 Varughese

2 essentially being absent for four days straight.

3 So that was covered for him. There
4 was no problem. But I noted that he was
5 complaining about me saying that I'm not doing my
6 work and it was merely me delineating some work,
7 you know, to, what is it? Doctor, I mean, to the
8 moonlighters, the PA. That wasn't me not being
9 there four days. It was just, you know, assigning
10 some work to the moonlighters.

11 Q. Anything else that you believe
12 Dr. McCash did to treat Dr. Azar better than he
13 treated you?

14 A. Right. Well, in terms of
15 moonlighting, I was told by Dr. McCash that I
16 wasn't doing my work. Or I wasn't, I don't know,
17 he wrote me this long letter about how I wasn't
18 doing my work or there was some allegation that
19 people -- I wasn't grossing as I should. But
20 nobody ever approached me regarding it and nobody
21 ever said what the cases were, but he made all
22 these allegations and I thought that was
23 discriminatory.

24 Q. Anything else that Dr. McCash or any
25 other way in which Dr. McCash treated Dr. Azar

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1 Varughese

2 better than he treated you?

3 A. I think that's all I can think of
4 right now.

5 Q. And what did Dr. McCash do with regard
6 to Dr. Trevino that was better treatment than you
7 received from Dr. McCash?

8 A. Well, Dr. Trevino was out a lot too.
9 I think he was out on surgical pathology. He got
10 ill and he wasn't there for, I don't know, like
11 three days, four days. And there was no complaint
12 from Dr. McCash regarding that.

13 Q. Anything else?

14 A. Well, that's all I can think of right
15 now.

16 Q. How did Dr. McCash treat Dr. Guarino
17 in a manner better than he treated you?

18 A. Well, with Dr. Guarino, he was, let's
19 see. He was allowed to utilize the moonlighters
20 and the PAs, pathology assistants, as he saw fit.
21 There were a lot of e-mails from Dr. Guarino about
22 how he needs moonlighters and Dr. McCash wrote
23 also on behalf of Dr. Guarino to request
24 moonlighters to come in so Dr. Guarino doesn't
25 have to do all the work himself.

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2 And Dr. Guarino was being provided a
3 lot of assistance by Dr. McCash who was also
4 advocating for him to handle moonlighters, to
5 utilize the PAs, which it seemed like I couldn't
6 do. I couldn't do that, and that was essentially
7 a problem in Dr. McCash's eyes that if I used the
8 moonlighters, a different issue, a different story
9 than Dr. Guarino utilizing the moonlighters and
10 McCash's e-mails requesting people, you know,
11 people moonlight so Dr. Guarino has assistance.

12 Q. Any other way in which you believe
13 Dr. McCash treated Dr. Guarino better than he
14 treated you?

15 A. That's all I can think of right now.

16 Q. What did Dr. Jordan do that you
17 believe was discriminatory against you because
18 you're a woman of Indian descent?

19 A. Dr. Jordan was -- what was she doing?
20 She, I mean, I think she said that she was afraid
21 of me. I think that was because I'm a woman of
22 Indian descent. Because there's like nothing --
23 I've never had any interaction with her where she
24 should be afraid of me in the least. I have
25 always been nice to her. And she makes these

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1 Varughese

2 statements about me, which are frankly racist,
3 because --

4 **Q.** Are you referring to the statement she
5 made about you in the e-mail where she said she
6 was afraid of you or some other statement?

7 **A.** She said, you know, she insinuated
8 that I have a variety of mental health issues by
9 saying that I have a flight of ideas which is, you
10 know, that's a symptom of a very serious mental
11 illness such as schizophrenia or bipolar disease.
12 To make such statements about your colleague is
13 outright defamatory and that's racist.

14 **Q.** Anything else that you believe
15 Dr. Jordan did that was discriminatory against you
16 because you are a woman of Indian descent?

17 **A.** I mean, I think she made a variety of
18 statements. She alleged false, you know, she made
19 up stuff.

20 **Q.** Like what?

21 **A.** I think she said that I had made
22 certain statements to her, which were all false.
23 Then she said that I had cursed at her or
24 something at some point. I have never cursed at
25 Dr. Jordan ever in my entire -- as long as I've

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1 Varughese

2 known her I've never said a single cuss word to
3 her ever and she said that I did.

4 **Q.** OK.

5 **A.** Which is false. And she had -- what
6 else did she do? She, I mean, with the McCash
7 incident she was, you know, involved in that. She
8 was one of the moonlighters and she didn't want
9 to, you know, she didn't want to do certain work,
10 which is fine, but if there's a second
11 moonlighter, I mean, I'm utilizing them to do the
12 work.

13 I mean, I don't -- it's really not her
14 business in any way to be, you know, be involved
15 in that and she has time and time again interfered
16 or obstructed with my ability to do my work.

17 **Q.** How did she do that other than on the
18 one occasion of December 8th?

19 **A.** December 8th she did that. Then I was
20 on service with her and there was some allegations
21 that I was not doing my biopsies and such. I was
22 on that rotation. She was on the same assignment
23 with me, and it's quite possible she was taking
24 those cases and signing them out without my
25 knowledge.

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1 Varughese

2 **Q.** Do you know that for a fact or is that
3 your assumption?

4 **A.** Well, I do know that for a fact
5 because when I looked into the system on the day
6 they said I hadn't done my cases and they were
7 signed out by her. Some of the cases were signed
8 out by her on the same day.

9 And that's essentially because I
10 didn't get an opportunity to take those cases and
11 sign them out. Not because I wasn't trying to do
12 my work. It was simply that she picked up the
13 paperwork on the cases because she got them
14 somehow and she decided to sign them out.

15 **Q.** Anything else that Dr. Jordan did that
16 you thought was discriminatory because you're a
17 woman of Indian descent?

18 **A.** Let's see. I mean, with the
19 scheduling she said that Dr. Jordan, I mean,
20 Dr. Lento and I believe, I mean, I don't know. I
21 think she was -- she may have been motivated by
22 some racist belief.

23 **Q.** Anything else that Dr. Jordan did that
24 you believe was discriminatory because you're a
25 woman of Indian descent?

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1 Varughese

2 **A.** Well, I can't think of anything right
3 now.

4 **Q.** Let's assume for a second,
5 Dr. Varughese, that all the things you just said
6 about Dr. Jordan's behavior is true, that she
7 signed out cases that were your cases, she made
8 the statements about you that weren't true,
9 whatever she did with scheduling.

10 Why do you think that she did those
11 things or said those things because you're a woman
12 of Indian descent?

13 **A.** Why do I think that?

14 **Q.** Yes.

15 **A.** Why do I think it's motivated by
16 racism?

17 **Q.** Well, that's your conclusion. Why do
18 you think she said or did those things because
19 you're a woman of Indian descent?

20 **A.** Well, I think they were motivated by
21 racism. I mean, why would you say somebody is,
22 you know, somebody has mental health issues or a
23 variety of things? I mean, I never said anything
24 like that about her, even though there was talk
25 that she has some mental health issues and it was

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well-known in the residency program.

And like I've never made any of those allegations to her face or to anybody else behind her back, I mean, until today. But because it's not appropriate to, you know, it's not professional, it's not right to make statements like that about someone. And here she goes making all these statements about me that are extremely defamatory.

Q. So you think that, do you think that Dr. Jordan -- withdraw that.

A. Actually, let me finish my thought actually.

Q. Go ahead, finish. I thought you were finished.

A. I think she was doing that to support Dr. McCash as well because, you know, she probably identified with him because he is like also white and, you know.

Q. So Dr. Varughese, is it fair to say that you can't think of any other reason why Dr. Jordan would make those statements about you or do those things other than the fact that you're a woman of Indian descent?

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Varughese

MR. WRONKO: Form objection.

A. Right. Frankly, I mean, she also mentioned a lot of the statements that she was making was based on her fear that I was going to report her to the State for drinking, which I don't even know how she knew I reported her for drinking because I never told her. I don't remember updating Adrienne Jordan saying, hey, Adrienne, I'm going to go report you for drinking.

For all she knows, someone else reported her. But somehow she knew that and she assumed that I had made a complaint against or I was going to report her or something, she thought that for some reason, even though I've never said anything like that to her and I never said to her I'm going to report you for anything. I never said anything like that to her.

Because she is still a colleague. Like I obviously want her to do well. I am not going to sit there and make derogatory statements about her so that she doesn't get out of her residency.

But she for some reason thinks that I'm going to do all these things to her which are

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Varughese

completely unfounded and she had said that to HR that she thought I was going to report her, and then she thought other people are afraid of me and such, which is completely false, because nobody was afraid of me.

Q. So I come back to the question, or rather put it a different way, can you think of any other reason that Dr. Jordan would have said or done the things you say that she did and said other than the fact that you're a woman of Indian descent?

MR. WRONKO: Objection, asked and answered.

MR. McEVROY: I don't think she answered it.

MR. WRONKO: She gave another potential reason.

A. Yes, I gave another potential reason.

MR. WRONKO: Beyond whatever you already testified to.

Q. So either because you're a woman of Indian descent or because she was concerned that you were going to report her to the State for drinking on the job.

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Varughese

Any other reason you can think of that she would have made the statement, done the things that you said she said?

A. I mean, I can't read Dr. Jordan's mind. My assumption is that she's doing that because she is racist or she's afraid of being reported. Those are the two reasons I can think of.

Q. And you said that you never told Dr. Jordan that you reported her for drinking on the job, correct?

A. Not to the State.

Q. Did you ever tell Dr. Jordan, I'm the one who reported you?

A. No, I never told her that and I had no intention of telling her that.

Q. Did you ever tell Dr. McCash that you were the one who had reported him for drinking on the job?

A. No.

Q. So if they knew that you were the person who reported them, do you know how they found out?

A. Right, and the thing is, I don't even

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1 Varughese
2 think I reported Dr. Jordan to, you know, like I
3 wrote the self-reflection. In that I had said
4 that Dr. McCash may have been drinking on the job
5 and I thought that his behavior may have been
6 influenced by alcohol, because like I know when he
7 drinks he acts a certain way.
8 I mean, I thought there might be some
9 aggression may have come out that, not necessarily
10 his attitude and such. But the aggression may
11 have been related to drinking.
12 Q. My question, Dr. Varughese, is if
13 Dr. Jordan or Dr. McCash knew that you were the
14 person who reported drinking on the job, do you
15 know how they found out?
16 A. Oh, they probably found out --
17 MR. WRONKO: Form objection.
18 A. -- because Dr. Lento probably told
19 them.
20 Q. Probably is different than do you
21 know. Do you know --
22 A. Do I know?
23 MR. WRONKO: Hold on. Let me hear the
24 question.
25 Q. Do you know, assuming they knew, how

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1 Varughese
2 they found out?
3 MR. WRONKO: Form objection.
4 A. Right. I think Dr. McCash was told by
5 Dr. Lento because, you know, they, Dr. Lento and
6 Dr. McCash, Dr. Jordan, they, you know, they're
7 essentially friends.
8 Q. So your belief is based on the fact
9 that you think that Dr. Lento, Dr. McCash and
10 Dr. Jordan are friends; is that correct?
11 A. Well, right. I mean, it was like more
12 than just some professional like, you know. I
13 mean, my relationship with my supervisors are
14 essentially like, hello, hi, good-bye. I'm not
15 sitting there having coffee or drinks with them.
16 So, I mean, their relationship was,
17 you know, Dr. Jordan was always, you know, on the
18 phone with Dr. Lento or always in his office and
19 Dr. McCash I'm sure was told. I'm sure they were
20 told by Dr. Lento.
21 Q. I understand. You say in your
22 complaint that, paragraph 19 in part, that
23 "Dr. Lento made excuses for Dr. McCash's behavior
24 despite confirmation from other house staff of
25 Dr. McCash's actions towards Dr. Varughese."

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1 Varughese
2 And I think here you are referring to
3 the incident in September. September 14th?
4 A. Right.
5 Q. And in the interrogatory responses
6 number 10 you identified the other house staff as
7 Kruti Maniar.
8 A. Right.
9 Q. And what's the basis for your
10 allegation that Dr. McCash's behavior on
11 September 14th was confirmed by Dr. Maniar?
12 A. Right, Dr. Maniar, I was there to hear
13 what Dr. Maniar said, Dr. McCash recognizes that
14 his behavior was inappropriate. And it was
15 confirmed by Dr. Maniar, who is the other chief
16 resident who is also a woman of Indian decent.
17 Q. When you say that you were present
18 when she said that Dr. McCash recognizes his
19 behavior was inappropriate, who did she say that
20 to?
21 A. Dr. Lento.
22 Q. When did that conversation take place?
23 A. That took place on September 15, 2010.
24 Q. Who was present during that
25 conversation?

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1 Varughese
2 A. Dr. Maniar, myself and Dr. Lento.
3 Q. Where did that conversation take
4 place?
5 A. At Mount Sinai Medical Center.
6 Q. But where in Mount Sinai did it take
7 place?
8 A. In the autopsy area, suite/area.
9 Q. How did it come about that Dr. Maniar
10 said what you said she said?
11 A. Well, it came about when we were
12 discussing Dr. McCash, his verbal outburst.
13 Q. What, if anything, did Dr. Lento say
14 in response to Dr. Maniar's statement that you
15 just testified about?
16 A. Dr. Lento said, Oh, I don't know. I
17 didn't hear about it. But Dr. Maniar confirmed
18 that they had actually already had a meeting
19 regarding it and Dr. Lento had been aware. But
20 Dr. Lento was trying to act like he didn't know.
21 MR. McEVOY: Let's take a couple of
22 minute break.
23 MR. WRONKO: Sure.
24 (A recess was taken from 12:38 p.m. to
25 12:43 p.m.)

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Varughese

BY MR. McEVROY:

Q. Dr. Varughese, what I would like to do before the lunch break is to ask you some questions about a few of the factual allegations in your complaint that we haven't, I don't think we've talked about before.

In paragraph 25 of the complaint you say, and I'll read the whole thing, "Only about four days after her official complaint of discrimination, Dr. Varughese received a hostile and threatening letter from Drs. Pessin-Minsley and Lento. Rather than properly responding to Dr. Varughese's protective complaints, the Hospital began engaging in an institutional practice of retaliation against Dr. Varughese for her complaints. In the letter, Dr. Varughese was told by Dr. Pessin-Minsley and Dr. Lento that they were in the 'process' of investigating her complaints, but that should she confront anyone regarding her discrimination complaint, that she," in italics, "would suffer, 'removal from service, possibly including termination.'"

We had a fair amount of testimony about that letter. And then it goes on in

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Varughese

paragraph 25, to say, "Meanwhile, Dr. Varughese continued to experience increased obstruction such as missing materials necessary to perform Dr. Varughese's duties."

And it is that last sentence I would like to ask you about.

What are you referring to when you allege that you were experiencing increased obstruction such as missing materials?

What materials were you missing necessary to perform your duties in or about December of 2010?

A. Missing materials. Well, for instance, on December 9th I was on, I think I was doing biopsies. I was in the biopsy service in the morning and then I was on frozen sections in the afternoon.

So the morning, you know, usually you get a page or, you know, like you check the -- check for the slides, the biopsy slides, and/or you get a page from the attending. They get it first.

There's no -- like whoever gets the slides first basically informs the other person of

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Varughese

the cases, you know, that have come in that day and the number of cases you want to sign out or work on versus the number of cases you want them to work on.

So, I mean, I didn't hear anything like that day. I wasn't getting any pages from anybody regarding cases that I should be working on or I didn't get the slides. Like I checked every thirty minutes or so. The slides, they didn't, you know, essentially I didn't get them.

And then going forward, in terms of things like even though immunohistochemistry, stains for more complicated cases, I wasn't getting any of those slides to review.

I mean, preview, if it's like a case that needs to be signed out immediately, you know, it's sometimes difficult to coordinate. But even to review afterwards I wasn't getting any of these cases going forward.

And when I was on hemepath, you know, I talked to my coworkers. Like, I was on, what is it? Surgical pathology with Jonathan Chow. He wasn't having any of these problems that I was experiencing.

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Varughese

Then on hemepath I continued to have these problems with slides, paperwork, materials relating to flow cytometry. Like, I wasn't getting those same materials as other people were.

Q. Where do those materials come from?

A. I usually just request -- either it's just submitted into my, you know, if I order them, it's submitted into my box.

Q. You order them from where?

A. From the lab. You had to order them from the lab and the lab is supposed to, you know, if you put your initial or put your initial next to those cases, the lab is supposed to like forward the slides to you once it's processed.

Q. On the occasions that you just described, did you order the slides?

A. Right.

Q. And you said you didn't get them.

A. Right, I wasn't getting the slides. I wasn't getting the immunohistochemistry, and oftentimes even blocks I had submitted that were validated as having been submitted, the slides would not be available to me. Even though they were there and a lot of times it was, oh, the

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1 Varughese
2 blocks went missing, the paraffin blocks.
3 And it's impossible for so many blocks
4 from one person to go missing while everybody
5 else's blocks are not going missing. It was my
6 blocks that were going missing.

7 Q. So the slides, the blocks, et cetera,
8 when you didn't get them or you were told they
9 went missing, did you inquire as to what had
10 happened to them?

11 A. Yes, I inquired extensively as to what
12 had occurred.

13 Q. Who did you ask?

14 A. I followed up with the supervisor for
15 histology laboratories.

16 Q. Who was that?

17 A. At that time it was Jonathan Troung,
18 and so he followed up and he reviewed, because
19 every time you submitted blocks, every day they
20 take pictures, Polaroid or digital photographs, of
21 everything that's submitted into the system and
22 everything they have, so they had a record of all
23 the blocks that were submitted.

24 So he then reviewed all the things
25 that were submitted and he says, well, your stuff

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1 Varughese
2 is, I mean, there were times when I made a mistake
3 and I obviously had to follow up on that.

4 But more often than not the blocks
5 were there. Everything was submitted or the
6 stains were ordered and my initials were, you
7 know, it was known it was to be assigned to me.
8 But they just were not being given to me or being
9 processed appropriately.

10 Q. Did the supervisor who you spoke to or
11 anyone else give you an explanation as to why they
12 had gone missing or you weren't getting the things
13 you had ordered?

14 A. Well, we could not get to the bottom
15 of this because it wasn't, you know, there was no
16 reason they should go missing.

17 It wasn't as if the labels were being,
18 you know, rubbed off or something, because I'm
19 working with very fatty tissue. When I'm on GYN
20 rotation I'm not really working with tissues
21 that's very fatty.

22 So the labels were there. You could
23 clearly identify the labels and everything. They
24 were going missing because somebody -- there was
25 foul play there.

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1 Varughese
2 Q. When you say there was foul play
3 there what do you mean?

4 A. Meaning somebody was removing them or
5 actively, you know, obstructing my, obstructing me
6 from being able to do my work.

7 Q. Do you have any belief as to who that
8 person or persons were who were --

9 A. I think it was like Ira Bleiweiss.

10 Q. What's the basis for your belief that
11 it was Dr. Bleiweiss?

12 A. Because he's the one who is like
13 always there and he has access to all the stuff.

14 Q. Where you say always there, where?
15 The lab?

16 A. Yes, I think he comes in early.

17 Q. Anybody else who you think was
18 responsible for your not getting the materials you
19 needed other than Dr. Bleiweiss?

20 A. Well, I think he was doing that
21 because he was also telling my, you know, other
22 supervisors that I'm not doing my work.

23 I think he was trying to like create a
24 really disorganized environment where I'm always
25 showing up to my supervisors telling them, Hey,

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1 Varughese
2 listen, like I submitted like five cases, five
3 major surgeries today for processing, and out of
4 the five surgeries four of my cases are missing
5 slides that are relevant to our signing out the
6 case on time.

7 So essentially all our cases when I
8 was on that service was being delayed at least
9 like a day, two days by the simple fact there were
10 slides missing even though it was all submitted.
11 And I think it just becomes aggravation for
12 everyone involved and it just makes me, you know,
13 and I'm the one who is working on the service.

14 It reflects negatively on me. Even
15 though I had nothing to do with it and it's not
16 something I can control, it still reflects
17 negatively on me.

18 Q. Is there any other reason that you
19 believe Dr. Bleiweiss was the person who was
20 preventing you from getting materials that you
21 needed?

22 MR. WRONKO: Form objection. You can
23 answer.

24 A. Well, that combined with his
25 complaining to my supervisors, I think I assumed

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Varughese

that he was doing that.

Q. Anything else?**A.** No.

MR. McEVOY: Why don't we break for lunch? It's about five to 1.

(A luncheon recess was taken at 12:55 p.m.)

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Varughese

A. Right, this is referring to the same.**Q.** And it says that the department refused to provide these materials.

Who in the department refused to provide the materials and support that you required to perform your work?

A. Well, this is the residency program.

I'm going to say that's Dr. Patrick Lento. He is supposed to make sure that residency-related materials are supposed to be available.

Q. So anybody other than Dr. Lento who you --**A.** I think the chairman of the department should also, I mean, they're responsible, the hospital is responsible.**Q.** Just so I understand, is it your testimony that when you say that the department, the hospital, Dr. Cordon-Cardo, Dr. Lento refused to provide work materials and support to you, are you saying they should have because of the positions they held at the hospital?**A.** Well, I think what I'm just saying is that, you know, these problems occurred following my complaints and it was to a higher degree than*Computer Reporting NYC Inc.*
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Varughese

AFTERNOON SESSION

(Time noted: 2:03 p.m.)

LEENA VARUGHESE, resumed and testified further as follows:

EXAMINATION BY (Cont'd.)

BY MR. McEVOY:

Q. Dr. Varughese, in paragraph 30 of the complaint you say, "Following her report of harassment," and there I think you are referring to the December 2010 incident. So if you look at paragraph 30 of the complaint, it's on page 10, it says, "Following her report of harassment," and again that's referring to the December 2010 incident, "Dr. Varughese continued to be subjected to a hostile work environment, including by the department's refusal to provide work materials and support required for Dr. Varughese to perform her work in pathology. Often, the slides, paperwork and necessary follow-up studies would not be available to Dr. Varughese."

Dr. Varughese, is this allegation regarding the same materials that you testified to before the lunch break or does this refer to something different?

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Varughese

before. I mean, there was problems within the residency program where materials and, you know, I mean, in every meeting minute or resident meeting minute or memo there were discussions about how materials, you know, there were problems with materials and disorganization in general.

But I'm specifically referring to my experience where I would order the appropriate slides or studies and they would not arrive ever for me. I mean, I don't think that was a problem for other people.

Q. Dr. Varughese, if you look at those interrogatory responses we were talking about before, interrogatory number 13 asked you to "Identify the individuals who 'refused to provide work materials and support required for Dr. Varughese to perform her work in pathology' and who 'refused to credit you for the work you performed' and 'removed and tampered with' your 'data' referred to in paragraphs 30 and 42 of the Complaint."

And you say in that response, after Mr. Wronko makes prior objections, "plaintiff does not know who in the department took such actions."

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1 Varughese

2 Do you see that?

3 A. Right.

4 Q. So --

5 A. Yeah, like I mean, I testified before
6 I thought that Dr. Bleiweiss was responsible, and,
7 I mean....

8 Q. I understand that, but on March 28,
9 2013, when you signed these, you said, you
10 certified that "The foregoing answers and
11 interrogatories are true and correct to the best
12 of my knowledge, information and belief. I am
13 aware that if any of the foregoing statements made
14 by me are willfully false I may be subject to
15 punishment."

16 So I guess my question is, in March
17 you didn't know who had refused to provide you the
18 information. Now are you guessing or do you know?

19 A. Well, I mean, I didn't write that
20 there, but, I mean, I do believe it was likely
21 Dr. Bleiweiss because, I mean, I cannot imagine
22 anyone else doing that unless it's Adrienne Jordan
23 or McCash.

24 Q. Dr. Varughese, this is not really the
25 time for you to sort of speculate about it could

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1 Varughese

2 have been Dr. Jordan, it could have been
3 Dr. Bleiweiss, it could have been Dr. Lento. The
4 answer you gave to the question was you don't
5 know.

6 So if you do know, then tell me that
7 you know. If it's your assumption, supposition,
8 guess, that's different.

9 So with that understanding, do you
10 know who refused to provide you with information
11 or materials that you needed to do your job?

12 A. Given the circumstances that I
13 testified to, I mean, they are rather unusual, so,
14 I mean, somebody has to actively do that. I mean,
15 I don't know who would do it, but I'm going to
16 assume that it's going to be Dr. Bleiweiss,
17 Adrienne Jordan or Lento or McCash. I can't
18 imagine anyone else who would do that.

19 Q. And then that paragraph of the
20 complaint goes on to say, "Dr. Varughese reported
21 these instances to hospital administration and
22 appropriate individuals, but no assistance was
23 ever provided to Dr. Varughese."

24 And there, and that's interrogatory
25 number 14, which asked you to identify the

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1 Varughese

2 hospital, members of the hospital administration,
3 appropriate individuals to whom you reported,
4 instances when slides, paperwork and necessary
5 follow-up studies would not be available, you
6 identified Dr. Lento, Dr. Barnett and New
7 Innovations.

8 So when did you tell Dr. Lento that
9 you were not being provided with slides, paperwork
10 and necessary follow-up studies?

11 A. Dr. Lento, I informed him -- I
12 informed him early on. Like, he would know. I
13 mean, I talked to Dr. Barnett, informed him about
14 the issues, and Dr. Barnett was aware of a variety
15 of all the issues in the department I think, and I
16 informed him early on, and I know Dr. Barnett
17 usually informs Patrick Lento immediately of any
18 issues. If anybody brings any issues to
19 Dr. Barnett, he will inform Dr. Lento.

20 Q. Did you tell Dr. Lento or do you
21 assume that Dr. Barnett told Dr. Lento?

22 A. No, I had spoken to Dr. Lento like in
23 beginning of the year and I did talk to him about
24 these issues. But in September 2010 I had talked
25 to him about these issues and I had told him like

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1 Varughese

2 what the problems were in terms of the, you know,
3 residency. Like after the McCash incident
4 occurred, I had spoken to him about all the stuff
5 and then I talked to him again.

6 Q. Right now we're talking about the
7 slides, paperwork and necessary follow-up studies
8 that would not be available to you.

9 A. Right.

10 Q. When was the first time that you
11 didn't receive slides, paperwork or necessary
12 follow-up studies?

13 A. When was the first time? I don't
14 know.

15 Q. Had it happened before September of
16 2010?

17 A. Had it? No. There was an ongoing
18 problem with like paperwork and issues from the
19 department. But in terms of it being sort of a
20 problem for me that was in excess of other
21 people's issues, that didn't happen until after
22 like September 2010.

23 Like before it was like everyone.
24 Like there was a degree of disorganization and a
25 number of issues within the department that

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Varughese

seemed, it seemed like it wasn't just my problem. Then after September 2010 I know what cases were, I was doing. I knew where the blocks were. Like I know what was submitted. I know what was ordered in the system, and in terms of the material that should have been given to me, given all that, there was a lot of issues producing those materials from them, which doesn't make any sense.

Because if somebody else in my same situation, same line of work, and they identified, put X, Y and Z blocks and they have all the cases, I mean, all the slides, not the cases, all the slides for that particular case, they're only missing one or two slides from each case. That was occurring to me a lot. And there was really no explanation to it because, I mean, there wasn't. There just wasn't any explanation for any of that.

Q. So before September of 2010 you said it was an ongoing problem that all the residents experienced?

A. Right. There was, I don't know what they were doing, but, I mean, this is like the lab

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Varughese

part that processes all the tissues. There were some things going on where they were not producing the materials on time.

But then for instance, like May, when I was on GYN rotation --

Q. When was that?

A. May 2011. This is like after September and December. So, I mean, September 2010 and December 2011. I mean, excuse me. December 2010. So in May 2011 I was on GYN rotation.

I mean, all the cases should have been processed the way it was submitted. But oftentimes I would not receive, like I explained before, like I would submit five different cases. All the blocks and everything would be submitted appropriately. And it's all like representative sections. There's nothing different from one block to the next block really in terms of the tissue that's being processed, but I would not get certain slides from that block, I mean, from those cases.

That's not happening -- that's not a happening out of nowhere. That's like somebody

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Varughese

actively obstructing and actively removing those blocks and not, you know, so that I would not get the slides and the materials.

The same thing with the immunohistochemistry, when I was on hemepath, I was not getting a lot of the slides, immunohistochemistry slides. And I talked to my coworkers like Dr. Chow or Martinez, and they said no, we're getting the immunohistochemistry slides. Like, you should be reviewing them because that's what we do and that's part of hemepath. It's not something that's reserved for, you know, the attending pathologist to do only. It's something that I should be doing as well and I should also be reviewing some other studies relating to all my cases.

Q. Dr. Varughese, you told me much about this morning. The question I asked you was prior to September of 2010 were all of the residents experiencing problems with paperwork and with slides and follow-up studies.

MR. WRONKO: Form objection. You can answer.

A. I mean, I don't know what all the
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Varughese

residents were doing.

Q. Were you aware of at least some of the other pathology residents --

A. Well, if you --

Q. Let me finish the question. Were you aware, you personally aware of other pathology residents prior to September 2010 who were having problems receiving necessary slides, paperwork and follow-up studies?

A. Well, I know what's in the meeting minutes of the residents' meeting, and it appears that some people were having issues getting, I mean, there were complaints regarding that.

Q. And after September 2010 are you saying that the frequency with which you encountered those problems increased?

MR. WRONKO: Form objection. You can answer.

A. Yes.

Q. And you told me about when you were in the GYN rotation and you were in hemo pathology. Any other occasions after September 2010 when you encountered problems getting slides, paperwork, follow-up studies other than on those two

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1 Varughese

2 rotations that you've already told me about?

3 A. Right, when I was on surgical
4 pathology, it depends on the case that I did. If
5 I did a case that had a lot of, I mean, this is a
6 technical thing. If it had a lot of fatty tissue,
7 they would not process the block. It required
8 longer processing because it doesn't process as
9 easily. So they would process the block for like
10 an extra day or something. So there was an
11 explanation as to why I'm not getting the cases or
12 the slides on time.

13 Beyond like that, those were the
14 situations when I didn't get the slides on time.
15 Otherwise my slides never used to go missing.
16 Like, I don't know if it happened to other people,
17 but before that in my experience my slides just
18 didn't like come out or just go missing.

19 But after I started, I reported this
20 harassment and such, my slides and everything
21 would just go missing randomly, even though it was
22 all accounted for.

23 Q. I'm sorry, and that started in
24 September 2010?

25 A. Right. Before that that didn't

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1 Varughese

2 happen.

3 Q. After September 2010 other than the
4 two physicians you mentioned who weren't having
5 the same problems you were having, do you know
6 whether any other pathology residents were having
7 problems getting slides, paperwork, follow-up
8 studies?

9 A. Well, it was reported to me people, I
10 mean, in terms of the certain type, I mean, people
11 reported to me that they were not having the same
12 issues when they were on certain rotations. Like
13 when they was on GYN rotation or hemepath rotation
14 they were not having those same issues. But
15 people in surgical pathology rotation, I think
16 people were having similar issues with missing
17 slides and all that stuff.

18 Q. And when you say people reported to
19 you, are those the two doctors you mentioned a
20 couple of minutes ago?

21 A. Who were the two doctors?

22 Q. You said -- I don't remember their
23 names off the top of my head, but you said --

24 A. Oh, Martinez and Chow?

25 Q. Yes.

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1 Varughese

2 A. Right.

3 Q. OK. Now, going back to your reporting
4 these problems to Dr. -- let's go back to
5 Dr. Lento. You said you spoke to him in September
6 2010?

7 A. To who?

8 Q. Lento.

9 A. Yes, I did.

10 Q. Where did you talk to Dr. Lento?

11 A. At the hospital.

12 Q. Where at the hospital?

13 A. In his office.

14 Q. Was anybody else present other than
15 you and Dr. Lento?

16 A. No.

17 Q. Tell me what you said to Dr. Lento and
18 he said to you about the problems with your not
19 receiving slides, paperwork, necessary to follow
20 up.

21 A. I think he said that they were trying
22 to fix these problems or they were trying to do
23 something to fix the issues. I think they were
24 going to hire more people. I don't know. Like
25 they changed their approach to this issue. I

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2 mean, they were always trying to hire somebody
3 new. I don't know. I think that's what they were
4 going to do.

5 Q. After this September 2010 conversation
6 with Dr. Lento about missing slides, paperwork,
7 and follow-up studies, did you talk to Dr. Lento
8 again about that subject?

9 A. Yeah, I mean, I did report these
10 issues. I wrote evaluations regarding the
11 problems that were there. I mean, I think he knew
12 it was me because like New Innovations, those
13 things were not confidential. We were told they
14 were anonymous and confidential, but they were
15 not. So like apparently our names showed up on
16 all the evaluations and stuff.

17 And so yeah, I mean, Dr. Lento had
18 access to that. So he definitely knew what my
19 complaints were and I was complaining about it.

20 Q. And he knew about that because you had
21 submitted them in writing through New Innovations?

22 A. Right.

23 Q. But did you ever speak to Dr. Lento in
24 person again after September 2010?

25 A. Yes, I spoke to him like as follow-up

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and then he accused me of writing a diatribe, evaluation with New Innovations and submitting it and I'm the only person with such a negative attitude and perception.

Q. Are you referring to your comments about missing slides, paperwork and follow-up studies?

A. Right, yeah, all that stuff. He said I'm the only person who has a negative perception about, you know, the residency program. I'm the only person who would write something like that and I'm writing a diatribe.

Q. Did he say that to you in person or did he --

A. Yes, he said that to me in person. And I was asking him if he was going to follow up at all with McCash, and he said -- that's what he said to me. He didn't say that he is going to follow up. He just started accusing me of doing all this stuff of writing.

Q. I'm sorry. What does Dr. McCash have to do with missing slides, paperwork and followup studies?

A. Right, I had this conversation because
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I was following up with him, if he was going to talk to Dr. McCash about his attitude, I mean, his verbal outburst and harassment. And Dr. Lento then accuses me of having a negative attitude and perception of, you know, surgical pathology rotation, which was like completely unrelated. I'm like talking about discrimination here and he wants to talk about some supposed evaluation that I thought was supposed to be anonymous and confidential.

And he said I'm the only person who has such a negative attitude. And I know that a lot of residents in that program were unhappy with the program and the teaching and the way, you know, they felt things were going there. So, I mean, I don't know why he would think I have such a negative attitude or I'm the only person who has a negative attitude.

I think he thinks that because, you know, he is discriminating against me and treating me differently. Like he would probably want to say that everybody does have a negative attitude.

But he doesn't say that. He says I'm the only person.

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Q. Did you have any other communications either in writing or in person with Dr. Lento about missing slides, paperwork, follow-up studies?

A. Yes, so I had that conversation with Dr. Lento and that's what he said to me. Then I think I had discussed this with him again at some point.

Q. Do you remember when?

A. (After pause) Right, I was on autopsy rotation in December to January of 2011, December 2010 to January 2011, and I would submit, you know, blocks to be processed from autopsies and I wouldn't receive them for like weeks. I mean, it would just sit there. I would, you know, submit something and I would expect it within a few days.

I mean, autopsy cases, they are not going to process them the next day because they are considered low priority for the laboratory, but they are supposed to be processed within a few days though, and there would be weeks where I would not get the slides back.

Q. Did you talk to Dr. Lento about that?

A. Yes, I did. I reported that like it's
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not because I didn't submit the slides. It's just simply because the lab hasn't processed it yet.

Q. And what did he say?

A. I don't know. I think he's supposed to follow up with the laboratory.

Q. And do you know whether he did or he didn't?

A. Yeah, I think he did.

Q. When is the first time that you spoke to Dr. Barnett about missing slides, paperwork and follow-up studies?

A. Well, I spoke to Dr. Barnett in January.

Q. Of what year?

A. January 2011.

Q. Where did you talk to Dr. Barnett?

A. I talked to him in his office.

Q. Was anybody else present?

A. No.

Q. What conversation did you have with Dr. Barnett about missing slides, paperwork and follow-up studies?

A. I just like informed him that I did not get the slides and paperwork like I should in

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2 a timely manner and it was becoming a problem.

3 Again, in like February of 2011 I

4 spoke to him again about it and I think, what's

5 his name? Paul Johnson was there at that time.

6 He was there during that conversation. And I had

7 informed them like my paperwork, my cases were not

8 being given to me anymore.

9 And it's a problem because like, you

10 know, it's preventing -- like I'm on a service.

11 All I do is like, you know, there's no grossing.

12 There's no grossing on this rotation. And the

13 only thing I had to do was like review cases and

14 come up with diagnoses and do research and I

15 couldn't do it because I didn't have the work

16 materials that I needed.

17 Q. Is that what you told Dr. Barnett and

18 Mr. Johnson?

19 A. Yes.

20 Q. What did they say?

21 A. They didn't say anything. They were

22 like, well, they just thought I had to go back and

23 talk to somebody else about it. They wanted me to

24 go talk to like Dr. Strauchen or some, you know,

25 they wanted me to go back to the department and

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2 talk to Dr. Lento and Dr. Strauchen and all these

3 other people in the department where it was a

4 departmental issues, like where I was not getting

5 this material. Him as the associate dean of

6 graduate medical education, it's his job to

7 intervene at that point.

8 Q. That's Dr. Barnett.

9 A. Yes.

10 Q. Why do you think it was his job as

11 associate dean to intervene at that point?

12 A. Because he is the associate dean of

13 graduate medical education. He is supposed to

14 ensure that education that the hospital promises

15 to provide to anybody who is enrolled in their

16 residency program occurs in a nondisparate manner.

17 And here I am complaining to him, that

18 since I complained, all of these things are

19 happening to me in the department and it's frankly

20 disturbing and, I mean, I felt really sad about

21 it. And I'm telling him about it and he just

22 wants me to go back and talk to the same people

23 who I'm saying is probably creating this issue

24 here.

25 Q. What's your understanding of New

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2 Innovations? What is it?

3 A. New Innovations is, I mean they called
4 themselves the residency management software. But..

5 it's an on-line Internet-based or cloud-based

6 program where you can input the duty hours, your

7 work hours, your conferences, your call.

8 You can review your information

9 regarding, you know, where you stand as personnel,

10 like the postgraduate year of training, or any

11 notes people made regarding licensing, and so on.

12 I mean, and you can compare yourself to other

13 people in your class or other classes on how

14 you're doing in different aspects of your, you

15 know, the six competencies. You can actually

16 compare yourself. So it's like one of those

17 management software for the program.

18 Q. Was there any information that you

19 were required to enter into New Innovations?

20 A. Yes, I think we were required to enter

21 into New Innovations the duty hours.

22 Q. You said in response to interrogatory

23 13 that you were "advised by a representative of

24 New Innovations that only an administrator of the

25 system could delete information."

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2 Who was the representative of New

3 Innovations that you spoke to?

4 A. I have her name, but I don't have it.

5 I have to find out what her name is. But, yeah,

6 so I spoke to a friend of mine who is in a

7 residency at another hospital who was the chief

8 resident. And he had informed me that I can call

9 up New Innovations and talk to the people there to

10 figure out, you know, if the information is still

11 in the system.

12 Because I knew they had deleted some

13 of my evaluations and stuff. Like the one

14 Dr. Lento accused me of writing a diatribe, they

15 had deleted all that stuff from New Innovations.

16 Q. You're getting ahead of me. So wait a

17 minute. So you know who the representative is

18 that you spoke to, but you don't have her name

19 here.

20 A. Right. I do know who that is, but I

21 don't have it here.

22 Q. Did she tell you that only an

23 administrator of the system could delete

24 information?

25 A. Right.

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Q. What is your understanding of what an administrator is? Who are the administrators of New Innovations?

A. They are basically superusers who can, you know. Like I have to have a password to go into my system and that's it. I'm limited to my account. If you're an administrator you're going to have blanket access to all different accounts and you can probably change the information in there.

Q. Do you know who the administrators were who had access to New Innovations who were the superusers as you describe it?

A. Well, Dr. Lento and Dr. Barnett were two people who were superusers of New Innovations.

Q. Anybody else that you know was a superuser?

A. No.

Q. And then it says, "The representative confirmed that information had been deleted on the system."

Did the representative you spoke to tell you what information had been deleted from the system?

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A. Right. I had told her it was these evaluations that were submitted, and she confirmed that they were no longer there. They were definitely deleted.

Q. Wait. You said to her an evaluation from Dr. Smith, a name I'm making it up, from Dr. Smith was submitted and should be in New Innovations.

A. Right.

Q. And she said it's not there.

A. Right.

Q. So you told her what information you thought should be in there and she confirmed that it wasn't there.

A. She confirmed to me that it wasn't there. Then I called up my coworkers and I talked to them whether or not the evaluations they had submitted to New Innovations had been missing at all from that particular year. Because from my first and second year all the evaluations that I submitted are still there. The only evaluations that have gone missing are the ones from third year.

Q. Are those evaluations that you

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submitted, that you personally submitted to New Innovations?

A. Right.

Q. They weren't submitted by the evaluator, but they were submitted by you.

A. Right, I was the evaluator of that particular rotation, yes.

Q. So were these evaluations of you by others?

A. No, it was evaluations of me --

Q. I see. Evaluations that you had done.

A. I had done of the rotation. Not of -- like surgical pathology rotation. Not of individuals. I never evaluated another doctor.

Some people had the right to evaluate other doctors. I was never given that right. But I know people did evaluate other -- their supervisors. I never evaluated my supervisors.

Q. Who were the coworkers you spoke to who said they didn't have any problems with missing evaluations that they submitted?

A. Well, I talked to Sara Frost and she confirmed to me that none of her evaluations that she submitted for the year 2010 to 2011 were

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missing.

Q. Anybody else other than Dr. Frost?

A. Right, I talked to Paul Azar and a few other people and they all said that, I mean, they said it was all there.

Q. Other than Dr. Frost and Dr. Azar, do you remember the names of any of the other physicians/coworkers that you spoke to?

A. No, there were a few people. I don't remember now who else I spoke to.

Q. In the same paragraph of the complaint 30 that we're looking at on page 10, the last sentence, that "Dr. Varughese was repeatedly humiliated on several instances with comments made regarding her Intelligence, and asked if she was, quote, special needs, unquote, when she made the same requests that were routinely made by other residents."

In response to the interrogatory number 15 that asked you to identify the individual who asked you if you had special needs, you said that Dr. Kalir advised plaintiff that, quote, people are saying you are, quote unquote, special needs, unquote.

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2 Do you see that?

3 A. Yes.

4 Q. So how did this conversation with
5 Dr. Kalir come about?

6 A. How did this come about? This is
7 after she was being -- she said that Dr. Bleiweiss
8 was, you know, was saying that she should write
9 negative evaluations about me and she said that he
10 was saying that I wasn't doing my work. And she
11 was, she said I'm crying at work and all this.

12 Then a day or two later she, you know,
13 we were having a chat and she said, well, because
14 I think -- I didn't know what was going on. I
15 don't know what the back story is or was at that
16 time. But now through discovery I discovered that
17 there were some e-mails being written about, you
18 know, grossing or gross room issues that I didn't
19 know about. And she said, and I guess that's in
20 that context where she said that, you know, people
21 are going, people are saying that you're special
22 needs.

23 Q. Did she tell you what people were
24 saying that?

25 A. No, she was referring to like the
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2 residents and the residency program and, you know.

3 Q. The quote that you attribute to her is
4 "people are saying you are special needs." So did
5 she tell you the names of the people who she said
6 were saying that?

7 A. Right. So the context of this
8 conversation was, you know, the people, I mean,
9 the people meaning like Cordon-Cardo, you know,
10 and I don't know what was being e-mailed because I
11 wasn't part of that e-mail, you know,
12 conversations. But I know that Ms. Morency had
13 sent out e-mails stating something or other about
14 grossing certain specimens that are supposed to be
15 grossed by PAs and the PAs didn't want to do it
16 for some reason and they were trying to force me
17 to do it.

18 I think this got back to her at some
19 point and then she said, you know, Do you want
20 people to say you're special needs? I think she
21 was referring to like the coworkers who were
22 there, which is, you know.

23 Q. Dr. Varughese, I'm not asking you
24 about e-mails that you read at some point later in
25 time. I'm not asking you about how you connect

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2 the dots.

3 What I'm asking you is, when you had
4 this conversation with Dr. Kalir did she tell you
5 the names of the people who were saying you are
6 special needs?

7 A. I am trying to think of one right now.

8 Q. Take your time.

9 A. I mean, she didn't say any names. I
10 think she mentioned like Dr. Bleiweiss. But she
11 didn't really say any names.

12 Q. Did she tell you what these people
13 meant by the words "special needs"?

14 A. Yeah. I mean, she didn't tell me, but
15 I knew, I know what she meant.

16 Q. So she didn't tell you. What did you
17 interpret her to mean? What was your
18 understanding?

19 A. She said, Are you special needs? And
20 I said, what are you, like, you know, what's the
21 problem here?

22 And she said, well, you know, like Why
23 do you need help with grossing or assistance with
24 grossing?

25 And I said because I have a lot of
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2 work to do and you routinely use the PAs and
3 moonlighters to perform some of the work because
4 that's what they're for.

5 And I had implied she was saying that
6 I was slow or that I was, you know, like retarded,
7 mentally retarded or something.

8 Q. Who said that?

9 A. She never said that, but I think
10 that's what she was implying by people are saying
11 special needs. I think that's what was being
12 implied.

13 Q. So that's what you understood her to
14 mean when she used the words "special needs."

15 A. Usually "special needs" in a
16 derogatory term, when it's said, that's what it
17 means to anyone, OK?

18 Q. That's what it meant to you anyway.

19 A. That's what it was meant to be, yes.

20 Q. And then it goes on to say that,
21 "asked if she was 'special needs' when she made
22 the same requests," she being you, "when she made
23 the same requests that were routinely made by
24 other residents."

25 What requests did you make that were
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1 routinely made by other residents that resulted in
2 people referring to you as having special needs?

3 **A.** Yes, routinely made requests was, you
4 know, obtaining assistance from the PAs, the
5 moonlighters, to do some of the work, you know, to
6 assign some of the work to them, which is done by
7 all the residents and all the fellows. Like, I
8 see that happening all the time.

9 There are mass e-mails being sent out
10 to the department on any given day about how much
11 work there is to be done and how everybody wants
12 help. Whether it's Adrienne Jordan, Elizabeth
13 Morency, Robert Grenowe (phon), Jacqueline
14 Hechtman, there's a constant barrage of e-mails.
15 Please help. I'm too busy today. Please help. I
16 need to go to a party and I need work to be done.
17 Please help. So-and-so is out again today. So we
18 need help with performing our work.

19 This happens all the time in this
20 residency. The minute I need to get some help
21 finishing my work, it just becomes this
22 large-scale issue where I'm being talked in this
23 way by my supervisor and being asked if I'm
24 special needs.

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1 **Q.** Then if you look at paragraph 32,
2 which also starts on page 10, it says
3 "Dr. Varughese was treated differently by the
4 Hospital than her similarly situated peers and in
5 retaliatory fashion. As for her work in the
6 pathology department, much of Dr. Varughese's work
7 entailed the analysis of slides. Dr. Varughese
8 would often, for no reason, be delayed by the
9 hospital in receiving slides, and additional
10 studies necessary to perform her work. Also,
11 Dr. Varughese would oftentimes order special
12 stains which were critical to her research and
13 work. For no justification, the Hospital refused
14 to provide the necessary stains, intrinsic to
15 making a final diagnosis in pathology. When
16 Dr. Varughese reported the issues and level of
17 obstruction that she was experiencing on a daily
18 basis to her colleagues, the colleagues denied
19 having similar problems on similar assignments."

20 I assume, but correct me if I'm wrong,
21 that the slides, additional studies, are the ones
22 we have been talking about.

23 **A.** Right.

24 **Q.** And then are the necessary stains the

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1 same ones that you talked about before?

2 **A.** Yes.

3 **Q.** And it says "the Hospital would refuse
4 to provide the necessary stains."

5 What's the basis for your belief that
6 the hospital refused to provide the stains?

7 **A.** OK, when I was on GYN the special
8 studies that I had ordered, they did not arrive at
9 all.

10 **Q.** Well, I understand that you said --

11 **A.** And then somebody went in there and
12 changed, you know, stuff that I had assigned to my
13 initials to the fellow's initials. And I was the
14 one who was on the service and they should have
15 been sending all those cases to me. But there
16 were changes. Somebody was going in there
17 changing everything to the fellow's initials.

18 **Q.** So assuming all that's true, what's
19 the basis for your belief that the hospital
20 refused to provide you with these necessary
21 stains?

22 **A.** That's refusing to provide. If they
23 obliged and provided the studies I would not be
24 changed to somebody else's name, and so on and so

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1 forth.

2 **Q.** Who is it at the hospital that you
3 believe refused or didn't provide you with the
4 necessary stains?

5 **A.** Who at the hospital? Well, probably
6 Dr. Bleiweiss and the powers that be.

7 **Q.** Then when you said in the beginning of
8 that paragraph that you were treated differently
9 by the hospital than your similarly situated
10 peers, and in interrogatory 16 you were asked to
11 identify the similarly situated peers and
12 colleagues, you identified Dr. Chow, Dr. Martinez,
13 Dr. Azar, Dr. Roman, Dr. Morency, Dr. Jordan and
14 Dr. McCash.

15 And while I'm happy to ask you about
16 each of those people individually, let me ask you
17 a question that hopefully will cover them all.

18 Are you saying here that these people
19 didn't encounter those problems in obtaining
20 slides, additional studies, necessary stains that
21 you say you encountered?

22 **A.** Right, I'm saying they didn't
23 encounter the degree of obstruction that I
24 encountered with work materials.

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2 Q. In paragraph 36 of the complaint,
3 which is on page 12, you say "Dr. Jordan was given
4 further preferential treatment such as being
5 permitted to take an elective in Pennsylvania even
6 though she had the duty of being a chief resident
7 at the New York City based hospital."

8 Was there something inappropriate in
9 your view about her being allowed to take I think
10 what's called an away elective?

11 MR. WRONKO: Form objection. You can
12 answer.

13 A. I think there was something disparate
14 about her being allowed a going-away elective in
15 Pennsylvania.

16 Q. What was disparate about Dr. Jordan
17 being allowed to take an away elective in
18 Pennsylvania?

19 A. Well, she was -- she had chief
20 resident duties at Mount Sinai Medical Center in
21 New York City and she, I believe she was in, I
22 don't know where in Pennsylvania, but I'm pretty
23 sure it was like in the middle of Pennsylvania
24 somewhere, and she could not, she did not have a
25 working pager. She did not have cell phone

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2 reception at times and she still had chief
3 resident duties at Mount Sinai Medical Center and
4 she was being paid for it. And I think that was a
5 problem.

6 Q. So is it your view that a chief
7 resident shouldn't be allowed to take an away
8 elective because they had chief resident
9 responsibility at the hospital?

10 A. Yeah, that's my opinion.

11 Q. It says, that same paragraph goes on
12 to say, "In contrast, plaintiff," you, "did not
13 receive comparable treatment and, instead, was the
14 subject of repeated discipline over the course of
15 a period of a year and termination for alleged
16 offenses that were commonplace for other coworkers
17 including Drs. Jordan and McCash."

18 What offenses are you referring to in
19 this paragraph that were commonplace?

20 A. OK, so, why do they say that? When I
21 was terminated they said I wasn't covering for
22 people or what not. I mean, clearly Dr. Jordan
23 wasn't covering for people either because she
24 wasn't there at the hospital. So if you did need
25 coverage, I mean, clearly she couldn't do it.

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2 Q. When you say she wasn't there, that's
3 during the period of time she was in Pennsylvania?

4 A. Sure, she was in Pennsylvania, but she
5 had, you know, the hospital was still paying her
6 extra money to be chief resident.

7 What else? I mean, there's so many
8 events or incidents that occurred over the years.

9 Q. You're talking about commonplace
10 offenses. I just want to know what commonplace
11 offenses you're referring to.

12 A. OK, well, for instance, there was,
13 what is it? Duty hours thing. They were accusing
14 me of not filling out the duty hours on time at
15 some point. I mean, this is something that
16 Drs. Jordan and McCash both didn't do on time on
17 several occasions. But Dr. Cordon-Cardo thought I
18 should be fired for that.

19 Then what else? Let's see.

20 (After pause) In terms of
21 unprofessionalism or professionalism issues.

22 Q. It is your complaint. It says --

23 A. Right, I'm going to --

24 Q. So tell me.

25 A. I mean, Dr. McCash was known to have

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2 shouted at me at least once in September 2010.
3 That was corroborated. Then again in December.
4 Nobody ever put him on academic advisement for
5 that and that's clearly unprofessional behavior.

6 But here, like one incident where I
7 allegedly, you know, responded to being attacked
8 at work simply because I'm trying to do my work,
9 get my work done for the day, I am placed on
10 academic advisement and then it goes into this
11 major issue that went on to essentially
12 substantiate, essentially explain or substantiate
13 why I should be fired eventually. I mean, that's
14 the rationale for me being fired, because I was on
15 academic advisement and I didn't satisfy those
16 requirements over a period of like a year and then
17 I'm basically fired after that.

18 Like, that's completely pretextual,
19 especially because as I have testified before, at
20 least like half of the rationale for that. I
21 mean, I had contended that that entire thing was
22 false and it was wrong to put me on academic
23 advisement from the start.

24 But, I mean, for a fact there was no
25 patient care related labs in that particular, as

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1 stated in that document. There was never any
2 issue regarding that. But they still said there
3 was some and they placed me on this academic
4 advisement that led to my termination a year
5 later.

6 **Q.** Coming back to my question, what other
7 commonplace offenses were committed by your
8 coworkers?

9 **A.** Yeah, that shouting thing, that was a
10 coworker who did that. There was no actions taken
11 against him.

12 **Q.** Right. You told me that.

13 **A.** In terms of Dr. Jordan, she went and
14 alleged that, you know, I was having flight of
15 ideas, that I had, you know, allegedly -- she was
16 allegedly, I mean, she was afraid of me, not
17 allegedly. She was afraid of me. She was making
18 all these statements about me that are extremely
19 defamatory and unprofessional and nobody cited her
20 or placed her on any sort of academic advisement
21 even though that's clearly unprofessional.

22 **Q.** Any other commonplace offenses
23 committed by Drs. Jordan or McCash?

24 **A.** In terms of conferences, presenting at

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1 conferences, these two, they have oftentimes
2 cancelled their conferences or not have presented
3 what they were supposed to present, and no action
4 was ever taken against them. They never got fired
5 for it. If you want to fire, you can just fire
6 the entire hospital if somebody didn't present
7 when they're supposed to present.

8 In terms of, you know, issues such as,
9 you know, going through my stuff, like Dr. Jordan
10 went through my stuff the day I was fired, she
11 somehow obtained the key to my locked desk and
12 drawers and she went through all those items even
13 though I was, I mean, I was fired from the
14 hospital, but there was a hearing that was pending
15 and I was never -- I requested the key that day
16 when I was leaving and nobody gave me the key so
17 that I could take whatever was my material and go
18 home with it. I never had that opportunity to do
19 that. That same day Dr. Jordan essentially goes
20 through all my stuff and -- this is after claiming
21 that she was terrified of me.

22 I mean, I never even did any of these
23 things, but I was still fired. Then they said
24 that I was fired because I didn't do well in

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1 cytogenetics, a two-week rotation. Meanwhile, did
2 everybody else in that department pass
3 cytogenetics? Did every resident pass
4 cytogenetics? I assume they did, but did all
5 those residents also go on to pass the anatomic
6 pathology and cytopathology board examinations?
7 No, they didn't. All these guys, they go and they
8 fail these exams multiple times.

9 I mean, eventually they are given
10 every single opportunity, but they are not
11 succeeding. They are not getting what they are
12 supposed to get out of it, but they are being
13 passed by the hospital as being competent doctors.
14 But they can go out there and pass a board
15 examination and get on with their life for like
16 years and years.

17 **Q.** Who failed the boards that you're
18 aware of?

19 **A.** Just about everyone in that program
20 failed the boards.

21 **Q.** Who failed the boards?

22 **A.** The only person who I know that passed
23 the boards was Mark Smothers (phon), and from my
24 knowledge, he was really the only person who

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1 really passed the boards, and Lanjing Zheng passed
2 the boards on his second try I believe. Everybody
3 else has failed and that is a program of like over
4 20 people. All of these people have repeatedly
5 failed, but nobody has ever been cited by the
6 hospital as having academic issues.

7 It begs the question. Why are they
8 citing me for it? It's because I complained about
9 harassment at work, about these particular doctors
10 who were being problematic.

11 **Q.** So any other commonplace offenses that
12 Dr. Jordan and McCash committed?

13 **A.** What else? Let's see. I mean, they
14 did take off from work a lot too. Dr. McCash and
15 Dr. Jordan both took numerous sick days and they
16 attended numerous courses, conferences that were
17 all paid for by the hospital, and --

18 **Q.** Let me understand. Is it your view
19 that if Dr. Jordan and Dr. McCash took time off to
20 attend a conference that was paid for by the
21 hospital that's an offense?

22 **A.** Well, when I'm not getting the same
23 sort of privileges, it's offensive to me.

24 **Q.** It's offensive to you.

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1
2 **A.** Is that an offense? You know what?
3 If they have work to do at the hospital and other
4 people have to cover for them, it is. It's a
5 problem. But is it like a terrible negative
6 thing? No. And the hospital should probably find
7 a way to accommodate these circumstances.
8 But, I mean, my problem really is
9 their absenteeism, like they were out of work
10 numerous times. There was a time when Dr. Jordan
11 was taken off surgical pathology service for a
12 week or two because of some incident that
13 occurred.

14 **Q.** When you say some incident that
15 occurred, what do you mean?

16 **A.** I think she had injured herself, and
17 she tended to do that a lot. I must have heard
18 her say she injured herself about like at least
19 three or four times the times I was around her
20 even, which is like not the entire three years, a
21 few months here and there, and she had reported
22 being injured numerous times. I mean, in my
23 entire three years I reported being injured once.
24 And that was a total freak accident.

25 **Q.** Do you believe that Dr. Jordan was
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1 somehow not being honest about her injuries?

2 **A.** I mean, I don't know. I mean, do I
3 believe that? I suspect some of it may have been
4 fabricated. I mean, some of them may have been
5 real. I have injured myself at least once and
6 which I had to report, so....

7 **Q.** Any other common offenses that
8 Dr. Jordan or McCash committed that you are
9 referring to in paragraph 6 of the letter?

10 **A.** Well, Dr. McCash definitely drank
11 regularly at work. I mean, these dementia rounds
12 by him, his requests for these dementia rounds
13 began sometime before he became chief resident and
14 it continued onwards till sometime in 2011.

15 And I mean, these were requests that
16 were made at the last minute often. Like he would
17 send in a request on December 1st for a December
18 2nd. Dementia round. This happened all the time.
19 And it was completely condoned by the department,
20 which is Dr. Lento, Dr. Bleiweiss, Dr. Schiller.

21 **Q.** Any other commonplace offenses that
22 you believe Drs. Jordan and McCash committed?

23 **A.** Hmmm.

24 **MR. WRONKO:** Can we take a short break
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1
2 after she is done with her response?
3 **MR. McEVOY:** Absolutely.

4 **A.** (After a pause) Like in terms of cases
5 that, you know, that were delayed, Dr. Jordan and
6 Dr. McCash, you know, delayed cases on a regular
7 basis. They said that I was, you know, I'm not
8 the only person who has ever done that. I know
9 for a fact that they did that all the time. They
10 delayed cases all the time.

11 Sometimes it's in the best interest of
12 patient care to delay a case. Sometimes it's, you
13 know, you delay a case for, because, you know, you
14 prioritize the case, you manage a case a certain
15 way. That's not really a problem with patient
16 care. There is no patient care related lapse
17 related to that and it was very commonplace.

18 But I was accused of doing that as if
19 it was some sort of like occurrence that only I'm
20 guilty of, when in fact appropriate patient
21 management sometimes, you know, calls for delaying
22 a case for appropriate management.

23 **Q.** What is delaying a case?

24 **A.** It's not delaying a case. It's just
25 simply like fixing the case or waiting to process

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1 the case till the next day. Everybody does that.
2 And I was accused of doing that as something that
3 I should be terminated for.

4 I mean, that was clearly pretextual to
5 say that that's patient care. I mean, I think
6 that's what they were saying was a patient care
7 related lapse, some case being processed a day
8 later. That's not a patient care related lapse
9 when everybody else does it and nobody gets cited
10 for it and I get cited for something like that.
11 It's complete pretext.

12 **Q.** Before we take the break, any other
13 commonplace offenses?

14 **A.** That's all I can think of at the
15 moment.

16 **MR. McEVOY:** Let's take a break.
17 (A recess was taken from 3:03 p.m. to
18 3:10 p.m.)

19 **BY MR. McELROY:**

20 **Q.** So Dr. Varughese, what commonplace
21 offenses did Dr. Guarino commit that you're
22 referring to in paragraph 36 in the complaint?

23 **A.** Well, he requested moonlighters and
24 assistants, pathology assistants all the time. If
25

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they were out he would send, regularly send mass e-mails requesting assistance with grossing or moonlighting, because there came a point when they weren't a lot of moonlighters available because they were systematically told by Adrienne Jordan that they were not allowed to moonlight.

So if Adrienne Jordan was out, there was no one to moonlight really, and people were constantly e-mailed asking to moonlight because they didn't have enough people to moonlight. And Guarino was one of those people who constantly requested moonlighting and assistants.

Then he did not present his, you know, he was scheduled to present on September 15, 2011, and he decided to cancel his presentation at the last minute on September 14th or 13th, or whenever it was, of 2011 and I was expected to present instead of him. And, I mean, that's, he just cancelled last minute and there was no consequence to him.

And this happened all the time with other residents too, such as Adrienne Jordan who insists she is going to make a presentation and then she would just cancel it at the very last

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minute.

Q. What other, if any, commonplace offenses did Dr. Guarino commit that you're referring to in paragraph 36 of the complaint?

A. I mean, in terms of professionalism, I think like he used to, I don't know, he used to make all this commentary about like I guess, you know, jokes. He would joke around about women and just off putting jokes he would make about women or people of different races and stuff. And like nobody ever cited him for any of that.

Q. Any other commonplace occurrences, offenses rather, committed by Dr. Guarino?

A. That's all I can think of right now.

Q. In response to interrogatory number 18, Dr. Varughese, you identified Dr. Jordan, Dr. McCash and Dr. Guarino who we just had testimony about, and then you say "and others."

Are there any others, and by other, I mean other coworkers, who committed commonplace offenses?

A. Right, I mean, I think this is really referring to like the termination letter and also to, I mean, the commonplace occurrences that --

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Q. Offenses, not occurrences.

A. Right, which is like, you know, I mean, I was essentially terminated for like these six reasons. I mean, this is like, for instance, poor conference attendance, a lot of people did not attend these conferences. But, I mean, nobody has been fired or even cited for them.

But I was essentially fired. Some of the reasons for me being fired was because I didn't like attend all these -- allegedly I did not attend 80 percent of the conferences.

Q. So other than whoever else you said did the same thing you did regarding conference attendance, whatever that might be, were any others, and others again referring to your coworkers, other pathology residents who committed commonplace offenses?

A. Yeah, like almost everybody did it. Everybody. Like you cannot, you know, it was impossible to, you know, things that they are citing me for, like it's impossible to work there and not occasionally, you know.

Q. Occasionally what?

A. Violate or, you know, occasionally

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have an issue where you don't receive a page or you -- I don't know. There were like six policies. I mean, I don't know. Occasionally not, you know, I don't even remember what all the policies were, but I'm sure other people violated those policies as well. And....

Q. Before you testified about Dr. Bleiweiss telling your superiors to write negative evaluations about them and you mentioned Dr. Kalir and two others. In interrogatory number 19 you also identify Dr. Petersen.

So was Dr. Petersen another one of your supervisors who Dr. Bleiweiss asked or told to write a negative evaluation about you?

A. Which one was that?

Q. Do you mean which interrogatory number?

A. Yes.

Q. 19.

A. 19. Um, yeah. I guess. I mean, I thought he was. Because, I mean, he told me that, I mean, at this point this was not even referring to Dr. Bleiweiss. It was referring to Dr. Firpo.

Q. Interrogatory 19 says "Identify the

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2 superiors who Dr. Bleiweiss requested to write
3 negative evaluations about you referred to in
4 paragraph 46 of the Complaint."

5 So this doesn't refer to Dr. Firpo or
6 anyone other than Dr. Bleiweiss.

7 A. OK, Dr. Bleiweiss, I'm not sure if he
8 had said anything to Dr. Petersen.

9 Q. OK. In paragraph 42 of the complaint,
10 you say that "Additional actions taken against"
11 (you) "included refusal to credit (you) for the
12 work (you) performed and removal of and tampering
13 with (your) data from the residency management
14 software known as New Innovations."

15 So with regard to the removal of and
16 tampering with the data from the residency
17 management software known as New Innovations, is
18 that what you told me about before, about the
19 evaluations that you say were deleted from the
20 system?

21 A. Yes. My evaluations were deleted.

22 Q. And what work was not credited to you?
23 It says "refusal to credit Dr. Varughese for the
24 work she performed." What work were you referring
25 to?

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1 Varughese

2 think you completed other than the work you just
3 described?

4 A. Yes. They would oftentimes ask me to
5 like gross cases and not sign out the cases. Like
6 let somebody else sign out the cases. Like a
7 resident or a fellow would take credit for the
8 work that I did.

9 Q. Did anybody tell you why they wanted
10 you to do that?

11 A. There is no good reason why I should
12 do that.

13 Q. I didn't ask you that. Did anybody
14 tell you why?

15 A. No, nobody told me why.

16 Q. Did you ever ask anybody why?

17 A. I just chalked it up to
18 discrimination, racism, sexism, national origin.

19 Q. Sorry, what was that?

20 A. National origin, discrimination and
21 disparate treatment.

22 Q. So despite your various conclusions
23 did you ask anybody why you were being asked to
24 allow other residents to sign out work that you
25 had done?

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1 Varughese

2 A. The work, it was essentially in terms
3 of just giving me credit for the work that I have
4 performed, which is like signing out cases.
5 Instead of putting my name on the case, they would
6 put somebody else's name on the case. This would
7 happen a lot. I mean, even with the autopsies
8 that I had done over the years.

9 I think I actually did a recalculation
10 of all my cases and went through all the paperwork
11 for it and I think I have done like over 60 cases
12 in three years. I had initially thought maybe I
13 did like, you know, like 40 something cases based
14 on my work at Elmhurst, the VA and Mount Sinai
15 Medical Center. But I failed to count certain
16 types of cases.

17 So in fact I actually ended up like
18 doing like 60 cases, and I wasn't -- the hospital
19 was insisting that I had only done like 20 cases,
20 which is a gross underestimation of the work that
21 I had done, when in fact I actually did like 60.
22 Like they are willing to give me credit for a
23 third of the work I did.

24 Q. Was there any other work that you
25 allege you were not given credit for that you

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2 A. Right, I did. I had a discussion
3 about this with Dr. Strauchen and Dr. Maniar who
4 got involved on this issue and e-mailed people
5 within the department and requested that that not
6 be the case.

7 Q. Who e-mailed and asked that that not
8 be the case?

9 A. Dr. Maniar.

10 Q. After Dr. Maniar sent out this e-mail
11 did the practice change?

12 A. Well, I mean, I think Dr. Strauchen
13 also, you know, was informed about that at that
14 time and I think he tried to change the situation
15 so that that would not take place anymore.

16 Q. Did it change going forward after
17 that?

18 A. Right. Whenever I had a concern, if I
19 brought it to Dr. Strauchen and I discussed
20 something with him, he immediately changed the
21 situation so that, you know, it would be, I would
22 be accommodated. There wouldn't be any more
23 problems.

24 Q. So then is the answer to my question
25 yes, that after you spoke to --

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A. Yes, Dr. Strauchen was very responsive to any concerns that I had when he was the program director.

Q. In paragraph 31 of the complaint you say "On February 15th, 2011, only Dr. Varughese was required to leave her assigned work post despite the fact that she and her male colleague did not have the requisite clearance known as a mask fit test."

You mentioned that briefly on one of the earlier days of the deposition. But who was the male colleague who you referred to in paragraph 31 of the complaint?

A. Dr. Chow.

Q. Is there anything else you would like to tell me about that incident other than what you already testified to?

A. Well, I think I had already testified that Dr. Chow was asked to remain and I was asked to leave, and this is a department that's run by Mount Sinai Medical Center.

Q. What department are we talking about?

A. Department of pathology.

Q. What is a mask fit test?

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A. It's just simply a test that, I mean, it's simply fitting. I think I testified to this before as well.

Q. Then don't repeat yourself. And who asked you to leave?

A. Who asked me to leave? It was the -- I don't remember now. It was one of the staff there, staff members there.

Q. Was it another physician?

A. No. It wasn't a physician.

Q. So a staff member. What staff member, not by name, but by title could have asked you to leave?

A. Well, Dr. Blaisero (phon) who was like the -- he oversees that department there. He was there, but he didn't like physically come out and ask me to leave. But I think he told the secretaries to tell me to leave.

Q. So you think he told the secretaries to tell you to leave.

A. Right. And they insisted that Chow should stay.

Q. Did they say why?

A. Well, I think it was discriminatory

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because, you know.

Q. I have no doubt you think that. My question is, did they say why?

A. Did they say why? No, they didn't explain themselves. They were trying to say that he had his test. And he said, No, I didn't have my test.

Q. As part of the discovery process you or Mr. Wronko were required to provide what are known as Rule 26 disclosures. One of the things that is required to be disclosed are the names of individuals who are likely to have discoverable information relevant to disputed facts alleged in the operative pleadings, and that's just kind of a fancy way of saying you have to identify people who know something about your case.

And 52 people. 52. Well, really, more like 49 names were disclosed. So what I am going to do is ask you about some of these people, not all of these people, because I am going to assume that you have told me, and tell me if I'm wrong, that you have told me for example everything, at least so far that I've asked you, everything that Dr. Lento knows about your claims

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in your case.

Is that a fair statement?

A. Um --

MR. WRONKO: Form objection. You can answer.

A. I mean, I'm not sure about that.

Q. Because here are the two choices and I'm happy to do either one. I can ask you what Dr. Lento knows about the facts alleged in the complaint for example, and you've obviously told me a lot about Dr. Lento over the last number of sessions that we've had.

And so I would ask you to tell me anything that you haven't already told me. So we can proceed that way if it's easier for you.

MR. WRONKO: No, I have to object to the form of that question, because that question, asking her what Dr. Lento knows, how could she possibly know or be inside of his brain to know what exactly he knows?

I mean, if you want to ask her has she told you everything about what she observed about Dr. Lento, you know, that I think is a fair question.

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1 Varughese

2 MR. McEVOY: Fine. I will be guided
3 by that.

4 Q. Have you told me everything that you
5 know about your conversations with Dr. Lento, your
6 communications with Dr. Lento, your observations
7 with Dr. Dr. Lento, et cetera? Not about what
8 Dr. Lento knows or doesn't know, because I agree
9 with Mr. Wronko, you can't possibly know what he
10 knows.

11 So with that qualification, have you
12 told me everything about Dr. Lento?

13 MR. WRONKO: Form objection. Again,
14 within the confines of the questions you've
15 asked.

16 MR. McEVOY: Absolutely.

17 A. Well, I mean, I didn't mention that
18 following my complaint in December 2010 I was
19 working with Dr. Lento on autopsy rotation and, I
20 mean, he has a way of being aggressive and
21 intimidating towards you, and when I was working
22 on autopsies he would often be very careless with
23 the scalpel.

24 I performed like several autopsies
25 with him that month, and he would be very cavalier

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1 Varughese

2 with the scalpel, and this is like a long-handled
3 scalpel with a blade. The long handle is about
4 like, I don't know, you know, it's like about the
5 length of this paper.

6 Q. Which is eleven inches.

7 A. Right. Oh, I think it's more like
8 eight. So it is more like the width of this
9 paper.

10 Q. Eight inches.

11 A. Right, with the scalpel, I mean, the
12 blade end, and he would just be very careless not
13 minding where I am working. I never experienced
14 that with him when I worked with him before, and I
15 worked with him for over two and a half years at
16 that time, and he never was outright intimidating
17 towards me or aggressive towards me ever.

18 After December 2010 he started doings
19 things like that where I was, you know, I was
20 actually pretty afraid to be around him when I was
21 working with him with the scalpel or on a case,
22 because he was becoming very aggressive and
23 extremely careless about my safety.

24 Q. So do you attribute that behavior to
25 the fact that you had complained?

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1 Varughese

2 A. Yes.

3 Q. Anything else that you saw, observed,
4 spoke to or interacted with Dr. Lento about other
5 than what you've already told me in response to n
6 questions that Dr. Lento has information about
7 regarding the claims in your case?

8 A. I think I testified to all the stuff
9 so far.

10 Q. The same question with regard to
11 Dr. Cordon-Cardo. Other than what you've already
12 testified to in response to my questions, is there
13 any other information that you know or believe
14 Dr. Cordon-Cardo has relevant to the claims in
15 your lawsuit?

16 A. No, I think I testified to.

17 Q. The same question with regard to
18 Dr. Firpo.

19 A. Well, Dr. Firpo had information
20 regarding what other residents were doing and
21 their issues or circumstances or how they were
22 violating policies and such.

23 But he was only treating me
24 differently when it came to like taking actions
25 against me. They were using it to take actions

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2 against me and I believe those actions have not
3 been taken against anybody else with that same
4 information.

5 Q. Anything else about Dr. Firpo?

6 A. That's all I can think of.

7 Q. The same question regarding
8 Dr. Bleiweiss.

9 A. I can't think of anything other than
10 what I already testified to.

11 Q. The same question regarding Dr. Figur.

12 A. I mean, I think I already testified to
13 Dr. Figur's involvement.

14 Q. The same question regarding
15 Dr. Hughes.

16 A. I also testified to Dr. Hughes's
17 involvement.

18 Q. The same question regarding
19 Dr. Fersch.

20 A. I think I testified to that too.

21 Q. The same question regarding
22 Dr. Schiller.

23 A. I think I testified to that too.

24 Q. The same question regarding
25 Dr. McCash.

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A. Yeah, I think I testified too.

Q. The same question regarding Dr. Jordan.

A. I think I've already testified to a degree about all her involvement.

Q. The same question regarding Dr. Barnett.

A. Dr. Barnett, I think he probably has more information regarding my termination and disciplinary action.

Q. You say he has more information. What do you mean?

A. Meaning he is the DIO and according to Melissa Pessin she had involved him as of December 2010. So I don't know what he was told by the department at that time, but I'm sure he has been informed about, I mean, he has been more informed and I'm pretty sure he has more information.

And he also knows, you know, I requested him to intervene at several points and he did not. And he basically testified that, you know, Alan Schiller was fired from the department for some financial issues.

Q. Who told you this?

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A. Scott Barnett.

Q. Scott Barnett told you that.

A. Yes.

Q. Anything else about Dr. Barnett that you haven't already testified to?

A. Right. I mean, he told me that, you know, he said that like, you know, he doesn't even know, like he said, I don't know if you did something wrong. No, that's not what he said.

He actually said this is sort of like a crazy situation. You're not, like you probably didn't do anything or they didn't do anything or maybe both of, both parties are to blame to some degree.

But I was the only one who was being disciplined. Like, there was no discipline being taken against McCash at all. So, I mean, he really confirmed that to me after I met with him. He definitely confirmed that that was the case.

Q. Anything else about Dr. Barnett?

A. I think that's all I can think of right now.

Q. And the same question regarding Dr. Stimmel. Just in case we've lost track of

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that question, other than what you've already testified to in response to my questions, is there anything else that you believe Dr. Stimmel knows about the allegations in your complaint or the claims in your complaint other than what you already testified to?

A. Yes. Well, I mean I spoke to Dr. Stimmel on December 9th and even before that I had met with him like earlier in that year at some point. I had met with him because there were some issues where the department was blaming me for something and I thought it was getting out of hand. So I met with Dr. Stimmel to discuss it.

So and then, when this incident occurred, I had actually talked to him on December 9th about Alan Schiller, you know, about everything that occurred in that meeting with Alan Schiller and Dr. Bleiweiss, and I believe Dr. Stimmel was supposed to intervene or get involved in some way to prevent this from happening. But, I mean, he did not.

But he also told me when I submitted my self-reflection that it was accurate and it was what I had reported to him and he had said that it

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was fine that I submitted a reflection. He never said that it was unacceptable as ombudsman, but the hospital said it was unacceptable and the hospital administrators said it was unacceptable.

Q. Anything else that Dr. Stimmel knows about the claims in your complaint?

MR. WRONKO: Form objection. You can answer.

A. That's all I can think of right now.

Q. The same question regarding Mr. Johnson.

A. I mean, I think I testified to a lot at this point. But, I mean, my complaint, to the degree that we went through my complaint at this point.

Q. The same question regarding Dr. Najfeld.

A. I think I testified to that earlier.

Q. The same question regarding Dr. Pessin-Minsley.

A. I think I testified to her involvement.

Q. The same question regarding Ms. Tiger-Paillex.

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2 **A.** Right, I mean, I have reported to her,
3 to Caryn Tiger-Paillex, all the issues in terms of
4 what had occurred and what the department's
5 actions were and how I felt that was wrong. And
6 going forward, I had -- like she had interviewed
7 other people in the hospital in the department and
8 it seems like she had gotten testimony or evidence
9 that my side was being corroborated to a degree
10 and she still went along with the actions of the
11 department that eventually became termination
12 reasons even though she knew a lot of what they
13 were doing was wrong.

14 **Q.** Anything else about Ms. Tiger-Paillex?

15 **A.** Right, and she said that she, I mean,
16 as HR director what she said to me was that she
17 thought McCash doesn't feel like he has done
18 anything wrong and he's not capable of apologizing
19 to you. And she's the HR director and she found
20 that acceptable, which I felt was largely
21 discriminatory given that I was concerned that
22 there was gender discrimination.

23 **Q.** Anything else about Ms. Tiger-Paillex?

24 **A.** That's all I can think of.

25 **Q.** The next person that you identify is

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1 Marina Lowy. And with regard to Ms. Lowy, you say
2 "Ms. Lowy has knowledge of the lack of remedial
3 action in response to Plaintiff's complaint."

4 What does Ms. Lowy know about the lack
5 of remedial action?

6 **A.** Marina Lowy, she, I mean, I knew that
7 legal department was involved on December 13th
8 because Melissa Pessin said so. But then after I
9 wrote my self-reflection and I e-mailed the
10 self-reflection I guess to Dr. Barnett, who had
11 said that he wanted to have the mediation meeting,
12 because in my self-reflection I had said that I
13 would like some sort of resolution to this issue
14 and some sort of mediation relating to having a
15 meeting just discussing how this incident was
16 going to not occur again and also understanding my
17 position about like how I feel like I'm being
18 harassed and treated differently from McCash and
19 being discriminated against, and he e-mailed that
20 to her and I believe she advised him not to do
21 that.

22 **Q.** Not to do what?

23 **A.** Not to have this mediatory meeting or
24 to resolve the issues relating to my complaints of
25

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1 harassment and discrimination.

2 **Q.** And what's the basis for that belief?

3 **A.** Because she was the only person from
4 legal counsel who was forwarded on that e-mail and
5 I think -- so I know that she probably advised
6 against it.

7 **Q.** Who is Michael McDonald?

8 **A.** He is the, how do I say it? He is one
9 of the general counsel.

10 **Q.** He is the general counsel.

11 **A.** He is the general counsel, but he is
12 like also the president or vice president of the
13 hospital or something.

14 **Q.** And you say that Mr. McDonald has
15 knowledge of remedial action taken in response to
16 your complaint.

17 What knowledge do you believe
18 Mr. McDonald has about remedial action taken in
19 response to your complaint?

20 **A.** Well, he was involved with the House
21 Staff Affairs Committee. I mean, in that, like in
22 the decision of the House Staff Affairs Committee
23 they had written that I was somehow argumentative
24 towards Melissa Rocco.

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1 I mean, they created a new rationale
2 for why I was terminated, even after I was
3 terminated, which was like never discussed, and
4 they created more rationale and they said that I
5 was argumentative towards Melissa Rocco, and I was
6 not argumentative towards her. I had simply asked
7 her to clarify a question that she asked me and
8 that was construed as being argumentative.

9 **Q.** So other than the fact that
10 Mr. McDonald was counsel to the House Staff
11 Affairs Committee during your hearing, is there
12 any other knowledge you believe he has about
13 remedial action taken in response to your
14 complaint or anything else having to do with your
15 complaint?

16 **A.** Right, I had concerns that I was
17 terminated on pretext.

18 **Q.** Let me stop you. Is there any other
19 information you believe Mr. McDonald has about
20 remedial action taken in response to your
21 complaint or anything else to do with your
22 complaint other than the fact that he was the
23 counsel to the House Staff Affairs Committee?

24 **A.** Right, he was a counsel to them and
25

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that's what they wrote up. He must have reviewed the decision.

Q. OK. So again, other than the fact that he was involved with the House Staff Affairs Committee hearing, do you believe he has any other knowledge about you, your claims, remedial action, anything else?

A. Yeah, I mean, I have reason to believe that he was informed, and then he misled me about a lot of things too.

Q. He was informed about what?

A. I mean, he was there at that hearing. So he knows what took place.

Q. All of us who were there at the hearing know what took place. So is that what you're saying, that he was informed about what happened at the hearing because he was there?

A. Well, he is a, I don't know, general -- I think he is like the general counsel in charge or whatever, so....

Q. I will tell you, Dr. Varughese, that Mike McDonald is the general counsel at Mount Sinai.

A. Right.

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Q. So you can have any sort of doubts about that allayed. That's who Mr. McDonald is.

A. Right, I'm sure Marina Lowy consulted with him or something at some point.

Q. So do you know any of this, Dr. Varughese, or is this just sort of like you just guessing, just assuming that it must have been?

A. Well, I would know more if you were willing to comply with discovery.

Q. Thank you. Dr. Varughese, do you want to answer my questions?

A. I'm answering your questions. That's all I know.

Q. So you don't know, do you, Dr. Varughese, what Mr. McDonald spoke to to Ms. Lowy, Ms. Lowy spoke to to him, what they said to anyone else involved in this case. You don't know what was said, do you?

MR. WRONKO: Counsel --

A. I don't know how to answer the question.

MR. WRONKO: Hold on. Counsel, you're now in the fourth day of deposition. She

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has given you the knowledge with regard to this particular individual.

Obviously these communications are attorney-client privilege. You understand that. You're choosing now at a quarter to 4 to argue with the witness.

MR. McEVOY: I am not arguing with her at all.

MR. WRONKO: Yes, you are. You're getting contentious, you're arguing, you're wasting time. Move on.

MR. McEVOY: Mr. Wronko, I'm not going to move on. Unless you're going to direct her not to answer, then we can ask the magistrate on Thursday.

MR. WRONKO: No, you can waste as much time as you like, but that doesn't mean that by dragging this deposition on or by arguing with the witness that you're going to get endless days to continue this deposition. This is coming to an end shortly, Mr. McEvoy.

MR. McEVOY: So you think.

MR. WRONKO: No, I do. Because if

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this is the way you're going to interact with the witness where you're going to egg the witness on and then the two of you are going to get into these types of contentious arguments over a witness who has marginal relevance --

MR. McEVOY: Then why did you identify him? If he has marginal relevance why did you identify the general counsel at Mount Sinai?

MR. WRONKO: Because he was at the house staff affairs meeting and that's it and you know that.

MR. McEVOY: No, I don't know that.

MR. WRONKO: You were just told that. Can we move on?

MR. McEVOY: And I asked the witness whether or not she had any other information or believed that Mr. McDonald had any other information about the House Staff Affairs Committee.

So if you're now representing that's all she know, I will move on.

MR. WRONKO: Thank you.

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1
2 BY MR. McEVROY:

3 Q. You then identified Dr. Morency. And
4 you said that "Dr. Morency has knowledge of her
5 own whereabouts during the events in plaintiff's
6 complaint."

7 What is the significance to you of
8 Dr. Morency's knowledge of her own whereabouts
9 during the events alleged in the complaint?

10 A. For instance, on September 15, 2011,
11 she was not at that conference. She wasn't
12 present at that conference because she was at the
13 dean's office that morning. So they were saying
14 that the residents were saying a variety of things
15 about me.

16 I mean, now I'm convinced that the
17 only resident that was saying anything about me
18 was Adrienne Jordan, because Dr. Morency was not
19 there and Dr. Firpo was saying the chief residents
20 are saying X, Y and Z and Dr. Morency is telling
21 me she's not even there and she hasn't been saying
22 anything.

23 Q. Anything else of significance to you
24 about Dr. Morency's knowledge of her own
25 whereabouts during the events in your complaint?

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1 A. I mean, that's all I can think of at
2 the moment.

3 Q. OK. And then you identify Dr. Azar
4 and you say "Dr. Azar has knowledge of the McCash
5 incident and his own attendance issues."

6 The same question regarding Dr. Azar.
7 And by same question, I mean anything else that
8 you have already told me in response to my
9 questions.
10

11 A. No, that's all.

12 Q. Then you identify Dr. Chow. "Dr. Chow
13 has knowledge of plaintiff's work performance."

14 And what does Dr. Chow know or you
15 believe he knows about your work performance?

16 A. Well, I worked with him on numerous
17 rotations over the years, even in, I mean, I was
18 at Elmhurst in February of 2011 and he has always,
19 um, I was on surgical pathology when Dr. Chow was
20 also on surgical pathology. We were on some
21 autopsy rotations together. And he has always
22 complimented me on my work and my work ethic.
23 I've covered for him several times when he
24 couldn't come in for whatever reason. You know,
25 so....

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1
2 Q. Then you identified Dr. Roman. What
3 does Dr. Roman know or do you believe Dr. Roman
4 knows about your work performance?

5 A. Right, Dr. Roman, same thing. We
6 worked together very often on a variety of
7 rotations and we always had discussions about our
8 careers, and so on. And, I mean, she can tell you
9 that she probably has never observed any sort of
10 delinquency on my part of patient care related
11 labs.

12 Q. Then you identify Dr. Martinez. What
13 does Dr. Martinez know or you believe Dr. Martinez
14 knows about your work performance?

15 A. I mean, the same thing as Dr. Roman
16 and Dr. Chow.

17 Q. Then you identify Dr. Grooms, I
18 believe it's pronounced, and you said that
19 Dr. Grooms has knowledge of Dr. Jordan's drinking
20 on the job.

21 Other than what you've already
22 testified to in response to my questions, is there
23 anything else that Dr. Grooms knows or you believe
24 she knows about Dr. Jordan's drinking on the job?

25 A. Well, she knows about the drinking on
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1 the job and, what else? I mean, I worked with her
2 on autopsies. She's oftentimes asked me for
3 assistance with her cases or, you know, advice on
4 what to refer to the medical examiners.

5 And as a junior resident I have always
6 tried to assist her and inform her of the correct
7 process and I was always very supportive of the
8 junior residents that were, you know, training in
9 the same program.
10

11 Q. And then you identify Dr. Kalir. You
12 say Dr. Kalir has knowledge of your work
13 performance.

14 Other than you what you already
15 testified to does Dr. Kalir have any other
16 knowledge, do you believe she has any other
17 knowledge about your work performance?

18 A. I mean, she's always, I mean,
19 Dr. Kalir despite what had occurred on GYN and
20 going forward, after, I mean, before I was
21 terminated even, but later on she has tried to be
22 supportive of me and tried to find ways to help me
23 with employment or finding employment and she
24 stated that she would serve as a positive, you
25 know, reference and she has tried to provide a

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positive reference for me so that I can obtain employment, and so....

Q. Anything else about Dr. Kalir?

A. That's all.

Q. I'm sorry?

A. No, that's all I can think of right now.

Q. Then you identify Andrew Castaldi, and you say "Mr. Castaldi has knowledge of meeting with Dr. Cordon-Cardo and Dr. Lento with plaintiff." I know you testified about that meeting and Mr. Castaldi's presence there.

Other than what you already testified to about that meeting, anything else that Mr. Castaldi knows or you believe he knows about the meeting with Dr. Cordon-Cardo and Dr. Lento?

A. He was at those two meetings, and I think I already testified to that.

Q. Then you identify a Ms. Patel. And you say "Ms. Patel sat in on meetings between plaintiff and Dr. Firpo."

Other than what you've already testified to, is there anything else that you believe Ms. Patel knows about those meetings or

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anything else having to do with your complaint?

A. I mean, she was actively involved in FMLA issues as I have testified to before, and the termination, she was actually involved in that. And also in terms of my, I guess telling payroll to not pay me anymore, she was involved in all of that.

And I think she was the one who called security. I mean, she was involved, but, I mean, she represents to me like the hospital administration that's essentially like Dr. Charney and Dr. Davis, because she works for them.

Q. Then you identified Dr. Petersen. You said "Dr. Petersen has knowledge of plaintiff's job performance."

Other than what you've already testified to in response to my questions, what does Dr. Petersen know or you believe he knows about your job performance?

A. With, I mean, that was my advisor and, I mean, he had given me positive work evaluations. And we worked, you know, we had a good working relationship and he thought it was odd or, you know, strange that Dr. Firpo was approaching him

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regarding hemepath rotations that I was already on for a month before. And he was concerned that Dr. Firpo was overstepping his boundaries as a board certified hematopathologist, how he should evaluate me and conduct his work.

Q. Then you identified Dr. Guarino. You say that "Dr. Guarino has knowledge of the cancellation of his presentation on September 15, 2011," and we've had testimony about that.

A. Right.

Q. Anything else you think Dr. Guarino knows about the cancellation of his presentation other than what you already testified to?

A. I already testified that he cancelled and there were no consequences.

Q. Then you identified Renato Valentin and you say that Dr. Valentin has knowledge of Dr. McCash's treatment of plaintiff.

And the same question. Other than what you already testified to does Dr. Valentin know anything or do you think he knows anything else about Dr. McCash's treatment of you?

A. Right, because Renato was there -- he was the per diem PA who works that evening shift

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and he was there when Dr. McCash was harassing me. And he had witnessed the event, but he was never interviewed by the hospital or the department.

I mean, that was, you know, going in May, I was working with him on GYN. He was out for some time because his father was ill, but he had told me nobody ever approached him or talked to him about the incident at all.

Q. Anything else that you think Dr. Valentin, Mr. Valentin knows about your complaint of Dr. McCash's treatment of you?

A. I mean, he has eyewitness knowledge of what occurred at that time. The hospital did not interview him.

Q. And Dr. Morotti. You say "Dr. Morotti has knowledge of specific incidents in the complaint."

Other than what you've already testified to in response to my questions, did Dr. Morotti have knowledge about specific incidents in the complaint?

A. Well, she told me that she -- she told me she had decided to leave shortly after they fired me because she had witnessed some of the

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1 Varughese
2 goings-on with security and security being called
3 to my desk.
4 I mean, this is someone who knows me
5 for three plus years and, you know, she was
6 concerned about it and after that she decided to
7 leave because she didn't agree with the way they
8 were treating me.
9 Q. So I just want to try and understand.
10 Dr. Morotti told you that she left the program?
11 A. She, she resigned.
12 Q. From the program.
13 A. From employment at Mount Sinai Medical
14 Center.
15 Q. What was her position there?
16 A. She was a pediatric pathologist.
17 Q. And she resigned from her position as
18 a pediatric physician at Mount Sinai because of
19 the way you were treated.
20 A. Right.
21 Q. Who is Lakshmi Ramanathan?
22 A. She is a clinical chemistry -- she's a
23 clinical chemistry clinical pathologist.
24 Q. And you say that Dr. Ramanathan has
25 knowledge of remarks made about you in the

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1 Varughese
2 workplace after termination.
3 A. Yes.
4 Q. To your knowledge what does she know
5 about remarks made about you at the workplace
6 after you were terminated?
7 A. I had spoken to her and she said that,
8 um, she said that people were saying something
9 about me. She said, Oh, you're so young. You can
10 do something else with your life. You don't know
11 what people are saying about you, and it's not
12 good.
13 I asked her what they were saying
14 about me and she said, you know, It doesn't
15 matter, but people are saying derogatory things
16 about you.
17 And that's what she said to me.
18 Q. Did she tell you, did she provide you
19 with the names of any of the people who were
20 supposedly saying these things about you?
21 A. I assumed it would be Dr. Cordon-Cardo
22 and Dr. Lento, because, I mean, she's not going to
23 take, I mean, why would she take anything that
24 Dr. Jordan, you know, she's not going to take the
25 resident's opinions or comments and say that

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1 Varughese
2 that's reason to fire someone.
3 But if Dr. Firpo is saying that I'm
4 having petit mal seizures and making defamatory
5 statements and he has been making those statements
6 to my supervisors, yes, it's defamatory and it's
7 going to make people say, well, this is what, you
8 know, this is ridiculous. Like I don't want to
9 repeat what they're saying to me to you, but....
10 Q. Did Dr. Ramanathan tell you the names
11 of any of the people who she said were making
12 derogatory remarks about you?
13 A. No, she didn't tell me who they were.
14 Q. Then you identified Dr. Hechtman and
15 you said "Dr. Hechtman has knowledge about the
16 incidents in the complaint."
17 Other than you've what already
18 testified to in response to my questions about
19 Dr. Hechtman, do you believe she has any other
20 knowledge about the incidents in the complaint?
21 A. I mean, she did, I mean, she does have
22 some knowledge regarding....
23 Q. I understand that and you testified
24 about Dr. Hechtman.
25 A. Right, I had already testified about

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1 Varughese
2 that, yeah.
3 Q. So I just wondered if there was
4 anything else other than what you already
5 testified to.
6 A. No, I can't think of anything else.
7 Q. And the same question with regard to
8 Dr. Ko.
9 A. I had also testified regarding what
10 Dr. Ko knows.
11 Q. And the same question regarding
12 Dr. Maniar.
13 A. I also testified regarding that.
14 Q. Then you identified Michael Marin.
15 And you said Dr. Marin is on the House Staff
16 Affairs Committee and has knowledge regarding
17 defendants' treatment of plaintiff.
18 So other than what Dr. Marin may have
19 learned in the course of his being on the House
20 Staff Affairs Committee, is there any other
21 knowledge that you believe Dr. Marin has about the
22 treatment of you at Mount Sinai?
23 A. Yes. Dr. Marin, I had worked with
24 Dr. Marin once before and that was when I was a
25 first-year resident. And I was working on a case

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where his patient had died after a long period of illness.

But it was a patient who had multiple stents, metal stents within the body and he had some sort of aortic duodenal fistula that was bleeding from the duodenum that they had to fix. I mean, I got this whole sob story from, you know, Dr. Marin -- well, actually, can I scratch that? Not a sob story. I mean, I --

Q. No, you can't, but you can correct it.

A. OK, whatever, like I would like to redact that.

So he had told me that he had this patient and I had to meet with him because his patient, like it was a case that I had to do. Because Dr. Zheng was there, the same Dr. Zheng that I mentioned earlier, and he said, Well, I'm not going to do this case, because it was my case. He wasn't going to do the case because it was a case that I was going to do.

Anyway, so I met with Dr. Marin and he said, Oh, I'm the chief of the Department of Surgery and this is my patient. He's such a nice old man. He's wonderful. He has like 15

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grandkids and what not.

I said, OK, that's great.

But he completely failed to mention that this patient had metal stents, was filled with metal stents, had all these other comorbidities that he didn't mention. And he completely misled me regarding this patient.

Then I go and do this case. Just before I start the case a different attending -- he was working on a book, he was working on a textbook, he was writing a textbook and was taking pictures of all the different cases that come in, that came in.

And he approached me and he said, Well, Leena, I would like you to be very careful with this patient because there are certain, you know, tattoos and such that. Even though he seems to be a nice old man who died after a chronic illness, there may be something in his history you're not really aware of and you need to be very careful.

Q. You said this happened when you were a first year.

A. Yes, I was a first-year resident.

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Q. So what does any of that have to do with Dr. Marin's knowledge regarding defendants' treatment of you?

A. Right, then I was doing the autopsy on this case. And I ended up getting injured because there were metal stents in there and then I ended up getting injured. This is like the one injury I ever had in this hospital. And I sent the blood for testing, infectious disease testing, and the patient had hepatitis C.

And Michael Marin had done numerous surgeries on him, inserted numerous stents in him, even for the aortic duodenal fistula. He must have known about his hepatitis C status and he didn't inform me. And I ended up getting injured in this case.

I only found out in retrospect that this patient had hepatitis C. You know, I mean, that failure to inform there, that's pretty serious for another physician at the hospital, and this is Michael Marin, the chief of surgery we're talking about at Mount Sinai Medical Center. That's my experience with him before.

And then he is on the House Staff

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Affairs Committee and he is very, you know, being very aggressive sort of, you know, being very short with me.

Q. I'm sorry, do you think that during the conduct of the hearing Dr. Marin treated you unfairly?

A. Well, he was being very short and abrupt at times.

Q. And why do you think he was being short and abrupt?

A. Why do I think that? I mean, I don't know why he didn't inform me that his patient had hepatitis C.

Q. We're not talking about that. We're talking about the House Staff Affairs Committee.

A. Why? Because he's probably biased. He probably has some sort of biases that....

Q. What biases do you think Dr. Marin has toward you?

MR. WRONKO: Form objection.

A. The biases he has towards me at this point, you know, is he going to support the hospital's claims and support the pretext and fire me for these things? Yes, he is going to do that.

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1
2 **Q.** So then did you think the entire House
3 Staff Affairs Committee proceeding was somehow
4 biased against you and unfair?

5 **MR. WRONKO:** Form objection. You can
6 answer.

7 **A.** Yes.

8 **Q.** Why do you think that?

9 **A.** I mean, they created like new reasons
10 for my termination.

11 **Q.** And by they, who are you referring to?

12 **A.** The House Staff Affairs Committee, and
13 they thought that me simply clarifying a question
14 that Melissa Rocco was asking me was considered
15 argumentative. It's outrageous.

16 **Q.** Any other new reasons that you think
17 they created to support your termination?

18 **A.** Any other things?

19 **Q.** Yes.

20 **A.** Well, they said that I was absentee.
21 I had absenteeism, which was never an issue. I
22 did not have absenteeism. Even Dr. Morency
23 testified to that fact, that I wasn't any more
24 absent than any other resident in that department.

25 **Q.** OK. Anything else about Dr. Marin?

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1 **A.** No, that's it.

2 **Q.** And then you identify Kenneth Davis.
3 Who is Dr. Davis?

4 **A.** Dr. Davis is the, I don't know, is he
5 the chairman of the hospital? The president of
6 the hospital.

7 **Q.** You say that "Dr. Davis has knowledge
8 of and participated in the decisions taken against
9 plaintiff."

10 What's the basis for your assertion
11 that Dr. Davis has knowledge about the decisions
12 taken against you?

13 **A.** Well, Shema Patel used to work for him
14 and I think by extension I assumed that he was
15 informed.

16 **Q.** I'm sorry, I didn't hear what you just
17 said.

18 **A.** By extension I assumed that he was
19 informed. Because Shema Patel is the interim
20 administrator and a direct link to Dr. Davis, and
21 I'm sure she was placed in that position so she
22 can report to Dr. Davis what was going on within
23 the department.

24 **Q.** Did Ms. Patel ever tell you that she

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1 was reporting to Dr. Davis about anything
2 regarding you?

3 **A.** She said that she works for the Office
4 of the President.

5 **Q.** I understand that. Did she ever tell
6 you that she had told Dr. Davis anything about
7 you?

8 **A.** Has she said that?

9 **Q.** Yes.

10 **A.** No, she has not said that to me.

11 **Q.** Then you say that Dr. Davis
12 participated in the decisions taken against you.

13 What's the basis for your assertion
14 that Dr. Davis participated in decisions taken
15 against you?

16 **A.** Dr. Who?

17 **Q.** Davis.

18 **A.** What's my -- well, because a decision
19 had to be made by someone and I think it was made
20 by probably Dr. Davis.

21 **Q.** Why do you say it was probably made by
22 Dr. Davis?

23 **A.** Because why would HR -- like HR is not
24 going to unilaterally decide to fire me. I mean,

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1 they had said that I can go to the doctor's
2 appointment, come back with a note. But in fact I
3 was fired even before I got that note.

4 Like they didn't tell me that I was
5 fired. But I was essentially fired as of like
6 Tuesday morning. But they only informed me
7 Wednesday, but I was already fired, so....

8 **Q.** Even assuming that's true, why do you
9 think Dr. Davis had anything to do with the
10 decision to terminate you?

11 **A.** I don't know. He's the president of
12 the hospital. He probably knows about decisions
13 to terminate. How many house staff did they
14 terminate that year?

15 I was probably the only person they
16 terminated as of September of that year. I was
17 probably the only person who was terminated
18 between late July and end of September.

19 **Q.** Did anybody ever tell you that
20 Dr. Davis participated in the decision to
21 terminate you?

22 **A.** No, but I have a sense that he knows
23 or he participated.

24 **Q.** Did anybody ever tell you that

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Dr. Davis participated in the decision to issue a final warning?

A. Did anybody tell me that?

Q. Yes.

A. No. But I was told that they're going to, you know, send my concerns to higher-ups and the legal department.

Q. And when somebody said higher-ups, did anybody say we're sending this to Dr. Davis?

A. No, but if you're the chairman of the department you basically answer to the president of the hospital and dean of graduate medical education. Those are the only two people you really answer to. You don't answer to anybody else above that.

Q. What's the basis for your belief that Dr. Davis was involved in issuing even academic advisement?

A. I don't think I ever said that.

Q. Fair enough. Any other decisions taken against you other than issuing you the final warning and your termination that you think Dr. Davis was involved with or participated in?

A. Well, to my knowledge, I mean, what I

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Varughese

can, I mean, what I know really is that Paul Johnson told me I shouldn't be at work. He said certain people told him.

I mean, he works for HR and GME. He is only going to take advice from either some legal counsel, in-house counsel, Dr. Davis or Dr. Charney or Dr. Barnett. He is not going to do things unilaterally to tell me to do something. Any of these decisions have to be approved by the hospital's president or dean.

Q. What's the basis for that belief?

A. Well, it's how I know they work.

Q. How do you know how they work?

A. Because Dr. Barnett said that that's how they do it.

Q. Dr. Barnett said what?

A. He said that Dr., the president of the hospital is always on the phone with Dr. Cordon-Cardo.

Q. When did Dr. Barnett tell you that?

Did he say he was on the phone with Dr. Cordon-Cardo about you?

A. They said about various fires to put out and he said that I was one of the fires.

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Varughese

Q. When did Dr. Barnett tell you that?

A. September 12, 2011.

Q. Tell me how that came about.

A. What came about?

Q. That Dr. Barnett told you that Dr. Davis was always on the phone with Dr. Cordon-Cardo about fires to be put out and you were one of the fires.

A. Well, he said that there were many fires to be put out in that department, there were all these problems, and he implied that I was one of the problems that the department had.

Q. Let me be, so that there's no confusion, Dr. Varughese, my question is I think fairly straightforward.

Did Dr. Barnett tell you on September 12th that Dr. Davis had spoken to Dr. Cordon-Cardo about you?

A. No, he didn't say it in those words, no. He didn't say that.

Q. Any other decisions that you believe Dr. Davis participated in or was involved in regarding you other than the final warning and the termination?

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Varughese

A. Probably the House Staff Affairs Committee. I'm not sure. I'm not sure of what other decisions. I don't have privileges to find all this information out and then -- what is it? You know, with my former attorneys who had sent a letter to the hospital, you know, specifically stating what the concerns were and asking the hospital to respond to them. The hospital never did so. The hospital never responded to my attorneys.

Like once I'm represented by an attorney, I think the hospital has to respect that as a professional I have some legal counsel here and they have a duty to like respond to them. But they didn't do that. They took actions against me, completely ignored my attorneys.

Q. Anything else about Dr. Davis?

A. No, I can't really think of any.

Q. Who is Chandandeep Nagi?

A. He is one of the attending pathologists.

Q. You say that Dr. Nagi has knowledge of plaintiff's job performance. What do you believe Dr. Nagi knows about your job performance?

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1 A. Right, I worked with Dr. Nagi on I
2 think it was September 7th or 6th or something. I
3 was on call and I was working with him during
4 call. And we had a number of cases that came in,
5 arrived late or whatever, and he, you know, I
6 called him up and I told him like what my
7 impression was of the case.

8 And he was like of course. I was
9 like, Do I need to send this picture to you? He
10 was like, No, no. Of course I trust your opinion.
11 You know, I'm a fourth-year resident.
12 By that time all my supervisors already knew that
13 I was very capable. I knew what I was doing and I
14 was doing well in terms of my training in the
15 pathology residency program and I was going to be
16 very successful if I were to complete the
17 residency and go forward to employment in
18 pathology.

19 Q. Who is Dr. Steven Ward?

20 A. Dr. Steven Ward is also one of the
21 pathologists there. He is GI and liver,
22 specializes in GI and liver pathology.

23 Q. And you said that Dr. Ward has
24 knowledge about your job performance.

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Varughese

1 What do you believe Dr. Ward knows
2 about your job performance?

3 A. I worked with Dr. Ward extensively
4 over the three years. He had just come out of
5 fellowship when I started my residency in 2008.
6 So as professionals we sort of like learned a lot
7 from each other over three years and we diagnosed
8 a lot of very difficult cases, transplant cases
9 that even fellows would refuse to work on that I
10 worked on with him and he was really impressed
11 with how I diagnosed things or how I managed my
12 cases and we never had any issues.

13 Q. And who is Mary Beth Beasley?

14 A. Dr. Beasley is a pulmonary pathologist
15 and I also worked with her in December of 2010 and
16 she's one of the more critical people when it
17 comes to training requirements and what she
18 expects of other physicians and their competency.

19 And by December 2010 she thought that
20 I was doing quite well in terms of my progress as
21 a pathology resident, in terms of the work I was
22 doing, in terms of my diagnostics and grossing
23 capabilities, you know.

24 Q. Anything else that you believe

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Varughese

1 Dr. Beasley knows about your job performance?

2 A. I think that's all I can testify to.

3 Q. Who is Roberto Garcia?

4 A. Another attending pathologist there.

5 Q. And you said that Dr. Garcia has
6 knowledge of your job performance.

7 What do you believe Dr. Garcia knows
8 about your job performance?

9 A. Dr. Garcia joined Mount Sinai the same
10 year that I joined in 2008 and we worked, you
11 know, over the course of three plus years and, you
12 know, I'm sure he had a chance to observe that I
13 was getting better and becoming a better doctor
14 over the years as a pathologist as I was working
15 there. So I think that's reflected in the
16 evaluation he submitted in December 2010.

17 Q. Anything else about Dr. Garcia?

18 A. That's all I can testify to.

19 Q. Then you identify Alexandros
20 Polydorides. Who is Dr. Polydorides?

21 A. He is yet another attending
22 pathologist who I worked with. There was some
23 question about me working on a case of his that
24 was, you know, being managed and how it was being

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1 managed, but I sent out all the cases with him in
2 December 2010 without any sort of incident.

3 We did not even have to follow up on a
4 lot of cases. Everything was signed out
5 appropriately. All the cases were managed
6 appropriately. I'm sure he can testify to that.

7 Q. Who is Shabnam Jaffer? Who is
8 Dr. Jaffer?

9 A. She's also another attending
10 pathologist there who primarily specializes in
11 cytopathology and breast pathology.

12 Q. And what do you believe Dr. Jaffer
13 knows about your job performance?

14 A. I mean, I've worked with her over the
15 years and she knows I'm capable and I've done my
16 work and she's never had any problems with me.
17 She's never complained about a single patient care
18 case that I've worked on.

19 Q. Who is Irini Scordi-Bello?

20 A. She's another attending pathologist.
21 She used to work there. She currently works with
22 the medical examiner's office in New York City and
23 she has knowledge of, you know, my work, my work
24 ethic when I was -- I was on autopsy, worked on

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autopsy with her, the autopsy rotation in January of 2011 and I also worked on surgical pathology with her. She also used to do breast pathology at Mount Sinai Medical Center, and we always, you know, like, I mean, we sent out all our cases. I'm sure she can testify that I haven't mismanaged any of her cases.

Q. And who is Anatoly Leytin?

A. He is another attending pathologist, but he works at the Elmhurst Hospital and he, um, I was on Elmhurst rotation. He had actually told me that I was doing very well, but then there was some evaluation submitted at some point that basically stated that I didn't do well on his rotation.

Q. An evaluation submitted by who? By Dr. Leytin?

A. Yes, which was contrary to what he had informed me when I was at the hospital. And then it was also contrary to what I was told by Dr. Lento on March 10 or 11 or something of 2011. And Dr. Lento had told me that I was doing very well, I had done very well at the Elmhurst rotation. All the attendings had told him,

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because he had inquired as to how I was doing while I was at Elmhurst, and they had told him that I was doing very well.

They were satisfied with my work and they weren't getting complaints. That's what Dr. Lento told me. And Dr. Leytin had also said the same thing to me when I was there, and I was working with him for a month. I think he was off for like a week or something when I was there.

I mean, he wanted me to go to all his, like, conferences. He was doing several presentations for I guess grand rounds or whatever at the hospital. And he wanted me to go to all of them and I had been to all the conferences and stuff. And he had told me that I had done very well, and then he submitted an evaluation in December of 2011 after I was fired saying that I was, you know, it wasn't a good evaluation. It was actually very negative.

Q. And did Dr. Nagi ever submit a written evaluation of you?

A. Dr. Nagi? No, he has not submitted it.

Q. Did Dr. Ward ever submit a written

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evaluation of you?

A. No, Dr. Ward never did either.

Q. Dr. Beasley?

A. Yes, Dr. Beasley did.

Q. Written evaluation?

A. Yes.

Q. Dr. Garcia?

A. Yes.

Q. Dr. Polydorides?

A. No, I don't think he had.

Q. And Dr. Jaffer?

A. Dr. Jaffer had, yes.

Q. And were those evaluations positive?

A. Yes, they were positive.

Q. And you had seen them.

A. Right, I had seen them because they were submitted and I can review them. I mean, I personally, you know, like a critical comment to me is not overly negative. You know, especially in a residency, because it is an opportunity to really learn and train over the years.

So, I mean, even if they said something, they had said that you had to improve certain elements of your diagnostics or whatever

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In an evaluation, I just thought that I should work on those points, and I had if they submitted any comments.

Q. Did Dr. Scordi-Bello submit written evaluation of you?

A. Yes.

Q. And you saw that evaluation?

A. Yes.

Q. Was it positive?

A. Yes.

Q. And Dr. Leytin submitted a negative evaluation of you. Did anyone ever tell you or did you ever ask anybody why Dr. Leytin submitted a negative evaluation after you were told that you were doing well?

A. Right. I don't know why he submitted that. I was concerned about it. Because I mean I was already fired at that time, and so I don't know why he would submit something negative about me after I was already fired.

Q. Who is Dr. -- who is James Strauchen?

A. Strauchen? He's a former program director.

Q. Before Dr. Lento?

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- 1
2 A. Right.
3 Q. And what knowledge do you believe
4 Dr. Strauchen has about your complaint about
5 Dr. McCash other than what you've already
6 testified to?
7 A. Well, I think he just has knowledge of
8 what I testified to already.
9 Q. And Yvelisse Suarez, who is
10 Dr. Suarez?
11 A. She was a resident there.
12 Q. You say "Dr. Suarez has knowledge of
13 covered issues of the GI rotation."
14 So other than what you have already
15 testified to on that topic, what knowledge does
16 Dr. Suarez have or do you believe she has about
17 coverage issues on the GI rotation?
18 A. Yeah, I think I already testified to
19 that.
20 Q. OK. Who is Noam Harpaz?
21 A. He is an attending pathologist, GI
22 pathologist there.
23 Q. You say that "Dr. Harpaz has knowledge
24 of plaintiff's termination."
25 Other than what you've already

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Varughese

- 1 testified to, what knowledge do you believe
2 Dr. Harpaz has about your termination?
3 A. Dr. Harpaz, I think he, I mean, I
4 think he knew that they made a decision before
5 Wednesday. I think he was informed like Tuesday
6 or something that I was going to be terminated
7 from the program.
8 Q. Why do you believe that Dr. Harpaz was
9 informed prior to Wednesday that the decision had
10 been made to terminate you?
11 A. Because I was at this conference on
12 Wednesday morning, September 21st, the day I was
13 fired and he came upstairs and he, you know,
14 stared at me and then he left. And I was
15 wondering what he was doing.
16 But then again, this occurred all the
17 time at Mount Sinai Medical Center where Dr. Firpo
18 would stop at my desk at all hours of the day and
19 not tell anyone what he was doing at my desk.
20 Q. So going back to Dr. Harpaz, any other
21 reason you think that Dr. Harpaz knew about on
22 Tuesday of the decision to terminate?
23 A. Well, I'm assuming that he knew.
24 MR. McEVROY: So it is now 4:28.
25

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- 1
2 Right? You agree with me?
3 MR. WRONKO: I do.
4 MR. McEVROY: So we have to this point
5 to accommodate Mr. Wronko's travel agreed
6 stop at 4:30. So I will continue to
7 accommodate Mr. Wronko and we will stop.
8 And I guess we will address the issue
9 about the continuation of Dr. Varughese's
10 deposition on Thursday.
11 MR. WRONKO: OK.
12 (Time noted: 4:30 p.m.)
13
14
15
16

LEENA VARUGHESE

- 17 Subscribed and sworn to before me
18 this ____ day of _____, 2013.
19
20
21
22
23
24
25

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C E R T I F I C A T E

- 1
2
3 STATE OF NEW YORK)
4 : ss.
5 COUNTY OF SUFFOLK)
6
7

- 8 I, THOMAS R. NICHOLS, a Notary Public
9 within and for the State of New York, do
10 hereby certify:

- 11 That LEENA VARUGHESE, the witness
12 whose deposition is hereinbefore set forth,
13 was previously duly sworn and that such
14 deposition is a true record of the testimony
15 given by the witness.

- 16 I further certify that I am not
17 related to any of the parties to this action
18 by blood or marriage, and that I am in no way
19 interested in the outcome of this matter.

- 20 IN WITNESS WHEREOF, I have hereunto
21 set my hand this 23rd day of July, 2013.
22
23
24
25

THOMAS R. NICHOLS

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Errata sheet

Subject: Transcript of day #4 of deposition of plaintiff, Dr. Leena Varughese, which was conducted on July 8, 2013

PAGE	LINE	CORRECTION
696	25	Correct "or..." to "but people were drinking at work while involved in patient care."
697	20	Change "McClosevich" to "Mikulosovich"
698	20	Correct "my" to "the"
698	25	Correct "director" to "associate"
705	21	Correct ". It's" to "-"
705	22	Correct "." to "and"
706	3 -7	Correct "and report him to somebody who, like Dr. Bleiweiss who I reported him to, reporting McCash to Dr. Bleiweiss in that same, you know, moment essentially within a few moments of that time I reported to him." to "I reported the harassment of Dr. McCash to Dr. Bleiweiss immediately following the attack against me in the grossing room and I asked Dr. Bleiweiss to intervene."
706	12	Correct ", but he wasn't there. He was on vacation or whatever it was." to "."
706	14	Correct "him" to "Dr. Bleiweiss"
706	13	Correct "him" to "Dr. Lento"
706	19	Correct ", " to "on"
709	4	Correct "there" to "in pathology and she"
709	23	Insert ", " before "as well"
709	24	Correct "The same, you know, as well as like other people." to "in the same way as other coworker physician residents did their work."
717	2	Correct "all substantiated" to "unsubstantiated"

PAGE	LINE	CORRECTION
718	9	Correct "this" to "their"
719	6	Correct "was talking about" to "was"
719	20	Insert "-" after "to me"
720	20	Correct "Zheng" to "Zhang"
721	16	Correct "Zheng" to "Zhang"
722	13	Correct "Zheng" to "Zhang"
722	15	Correct "Zheng" to "Zhang"
723	11	Correct "Zheng" to "Zhang"
723	12	Correct "Zheng" to "Zhang"
723	22	Delete "even really"
726	10	Correct "And then when, um, then on July 14th when he gave me the letter he had alleged that he had informed that I can get some sort of , you know, I can go into the, I guess the committee." to "On July 14th, I was given a letter in sealed envelope around 8:30 am, without any explanation of the contents of the letter or consequences of the contents of the letter."
726	17	Correct "He said I can use the committee." to "He falsely stated to the house staff affairs committee that he had informed me verbally of my right to appeal."
726	22	Correct ", and so on." to ". During this meeting, I also asked him why he did not produce the letter at the Veteran Administrative Affairs Hospital the previous day (July 13th) and he said that he wanted to see if there were developments that would bring it all the more together, which meant that he showed up at the VA to fish for information to use against me."

PAGE	LINE	CORRECTION
728	21	Correct "Because, I mean, he seemed like I don't know. Like he was just not very, like, I mean, he doesn't -- he seemed pretty cool as to what my work was and what I was doing. And, I menan, not cool, but he didn't seem very educated about a lot of aspects of medical residency." to "Dr. Cordon-Cardo appeared generally uneducated and uninformed about what my work was and what I was doing, especially about aspects of the pathology residency."
729	10	Correct "Like he was basically stipulating that these" to "He stipulated"
732	19	Correct "So I was not on that particular, you know, so it would accomodate my request" to "So the change in schedule was acceptable to the rotation supervisors and myself."
733	23	Correct "should be" to "should not be"
734	6	Correct "is" to "were"
735	8	Correct "extremely," to "an extremely"
735	22-23	Correct "Like, I can't, that's retaliatory" to "That both retaliation and discrimination against me."
736	10-13	Delete the sentences, misspoke due to fatigue.
741	13	Correct "on one end" to ", Dr. Bleweiss"
741	14-15	Correct "who was doing -- but I'am on a different rotation," to "that I was working with"
744	21	Correct "by told" to "told by"
748	4	Correct to "protective" to "protected"
748	7-8	Correct "was sort of something where my white colleagues were being incriminated" to "was incriminating to my white colleagues"
748	9	Correct "treat me" to "threaten my future."
752	22	Correct "protective" to "protected"

PAGE	LINE	CORRECTION
756	18	Correct "I can -- initially he had informed me that, you know, I'm going to at work and I'm not going to beout until -- I'm going ot be taking off from work until -- I was going to inform him and that was the initial understanding." to "I should be at work ."
757	8	Correct "to" to "for"
758	21	Correct "should" to "should not"
758	23	Correct "my" to "her"
759	24	Delete "or I should be requested that I not show up to work."
760	21	Correct "schedule, " to "schedule and"
762	20	Correct "of, and for violating various policies, they were not, you know, McCash and Jordan were not disciplined and I was being disciplined." to "of violating various policies. There were not, McCash and jordan were not disciplined and I was being disciplined."
766	17	Correct "Dickinson" to "Dikman"
766	21	Correct "it wasn't medical students --" to "I didn't say that."
766	24	Delete ", would be offended."
771	19	Correct "has something" to "has everything"
772	12	Delete "something to do"
777	4	Correct "for" to "supporting"
777	9	Insert "regarding" after "concerns"
777	14	Correct "permanent" to "program"
780	16	Correct "Stop being a threat." to "Talmud says stop being a threat."
800	9	Insert "that" after "aggression"
801	12	Correct "like, you know." to "relationship."
805	16	Correct "in" to "on"
806	14	Correct "cases," to "cases were ordered,"

PAGE	LINE	CORRECTION
807	4	Correct "flow cytometry" to "patient cases."
820	3	Correct "know what cases were," to "knew what cases that"
821	15	Insert "the slides" before " ,"
822	3	Correct "and not" to "and slides"
825	13	Correct "was" to "were"
833	4	Correct "issues" to "issue"
837	22	Correct "are" to "were"
837	23	Correct "are" to "were"
838	11	Correct "me --" to "my rotations."
838	13-14	Correct ". Not of --" to " ,"
841	12	Correct "Ms." to "Dr."
844	9	Correct "see" to "saw"
844	14	Correct "Grenowe" to "Guarino"
846	24	Correct "I" to "it"
849	20	Delete "OK, so, why do they say that?"
851	19-20	Correct " , at least like half of the rationale for that." to "over the past 3 days of deposition and to the hospital leadership and human resources in December 2010."
851	25	Correct "labs" to "lapse"
852	10-11	Correct "that was a coworker who did that." to "there were coworkers who did that."
852	11	Correct "was" to "were"
854	24	Correct "Smothers" to "Smethurst"
855	2	Correct "Zheng" to "Zhang"
859	6	Insert "lapse" before " ."
869	15	Correct "Blaisero" to "Glezerov"

PAGE	LINE	CORRECTION
875	19	Correct "Fersch" to "Fersh"
882	8	Correct "McDonald" to "MacDonald"
882	15	Correct "McDonald" to "MacDonald"
882	19	Correct "McDonald" to "MacDonald"
883	11	Correct "McDonald" to "MacDonald"
883	20	Correct "McDonald" to "MacDonald"
884	23	Correct "McDonald" to "MacDonald"
885	3	Correct "McDonald" to "MacDonald"
890	10	Correct "of" to "or"
890	11	Correct "labs" to "lapse"
890	17	Correct "Grooms" to "Grunes"
890	19	Correct "Grooms" to "Grunes"
890	23	Correct "Grooms" to "Grunes"
894	3-6	Correct "And he was concerned that Dr. Firpo was overstepping his boundaries as a board certifies hematopathologist, how he should evaluate me and conduct his work." to "Dr. Petersen was concerned that Dr. Fipro was overstepping his boundaries to tell Dr. Petersen how Dr. Petersen should evaluate me."
915	2	Correct "sent" to "signed"
916	6	Correct "sent" to "signed"

925

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 -----X
5 LEENA VARUGHESE, M.D.,
6 Plaintiff,
7 vs. 12 Civ. 8812(CM)
8 MOUNT SINAI MEDICAL CENTER,
9 PATRICK LENTO, M.D., CARLOS
10 CORDON-CARDO, M.D., ADOLFO
11 FIRPO, M.D., IRA J. BLEIWEISS,
12 M.D. and ABC CORP. 1-10, and
13 JOHN DOES 1-10,
14 Defendants.
15 -----X
16
17 August 7, 2013
18 10:01 a.m.
19 Volume V
20
21 Continued deposition of LEENA
22 VARUGHESE, held at the offices of Edwards
23 Wildman Palmer LLP, 750 Lexington Avenue, New
24 York, New York, pursuant to Notice, before
25 Thomas R. Nichols, a Registered Professional
Reporter and a Notary Public of the State of
New York.

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1
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3
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13 New York, New York 10022
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15 JULIE L. SAUER, ESQ.
16

17 ALSO PRESENT:
18 RAJIT MALLIAH
19
20
21
22
23
24
25

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1 Varughe
2 L E E N A V A R U G H E S E , called as a
3 witness, having been duly sworn by a Notary
4 Public, resumed as a witness, was examined
5 and testified further as follows:
6 EXAMINATION BY (CONT'D.)
7 MR. McEVOY:
8 Q. So Dr. Varughe, to ask the question
9 I always ask, are you taking any medication,
10 consumed any drugs or alcohol that will impair
11 your ability to answer the questions that I'm
12 going to ask you today?
13 A. Well, I did take Benadryl last night
14 for my allergies and I did take something for
15 gastritis as well.
16 Q. Does either of the things you took
17 affect your memory or --
18 A. Well, the Benadryl does. The Benadryl
19 may have some effect. It makes you tired and
20 groggy. But I took it last night. It should have
21 worn off by now.
22 Q. OK, good. So Dr. Varughe, I show
23 you a document that has previously been marked as
24 Defendants' Exhibit Number 4. It is the
25 resident's contract that you signed in March of
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1 Varughe
2 2011.
3 Just confirm for me, if you would,
4 that that in fact is your resident's contract for
5 the PGY year 7/1/2011 to 6/30/2012.
6 A. Yes.
7 Q. Yes?
8 A. Yes.
9 Q. If you look at paragraph 12, which is
10 on page -- the Bates stamp number P-997. Do you
11 see that?
12 A. What is it?
13 Q. Paragraph 12?
14 A. Right.
15 MR. WRONKO: He is referring to the
16 bottom page which is 997. Go to the next
17 page. There it is. See paragraph 12.
18 A. OK.
19 Q. It says: "The parties have entered
20 this Agreement in good faith and acknowledge their
21 respective ethical and legal obligations to
22 fulfill this Agreement until its expiration date.
23 This Agreement may be terminated and other
24 disciplinary action may be imposed in accordance
25 with the House Staff Manual. The policies and

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procedures concerning disciplinary actions, hearings and appeals are as outlined in the House Staff Manual."

Do you see that? And then it says "see pages 29 to 31."

A. Correct.

Q. I'll show you another document.

MR. McEVROY: Mark this as Defendants' Exhibit 60.

(Defendants' Exhibit 60, document entitled "House Staff Manual," marked for identification, this date.)

Q. Dr. Varughese, do you recognize the document that was given to you?

A. Yes.

Q. Can you tell me what it is?

A. It's pages 20, the -- I guess -- what is it? Table of contents and pages 29 to 33 of the house staff manual.

Q. On page 29 there is a section near the bottom of the page entitled "Disciplinary Action."

Do you see that?

A. Yes.

Q. Then there's a Roman numeral I that

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are a threat to the welfare or safety of patients, employees, other physicians, or the hospital" and E says "Falsifies any Mount Sinai document, or falsifies or misrepresents prior training or educational experience."

That's what C, D and E say, correct?

A. That's what it says.

Q. OK. Now, if you go to page 33, which talks about job retention, right? Underneath that there is, again, a Roman numeral I and that says:

"A House Staff Officer may be terminated from his or her residency program for failure to abide by the By-laws, Rules and Regulations, or policies of the Medical Center or of the medical staff, for falsification of any Medical Center document; for any activity that may threaten the safety or welfare of a patient, employee, or other physician; or for any action that may be detrimental to Medical Center operations.

"As stated above in 'Disciplinary Action,' that's in quotes, a House Staff Officer may be disciplined up to, and including termination of his or her residency program for

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says: "Disciplinary action: The Program Director, the Department Chair, the President of the Mount Sinai Hospital or the Medical Director of the Mount Sinai Hospital of Queens may take disciplinary action, including termination for cause, against any House Staff Officer who:

"A. Fails to demonstrate an acceptable level of professional competence, clinical judgment in the treatment of patients, or professionalism."

Do you see that?

A. Yes.

Q. And then if you turn the page, it enumerates four other bases on which disciplinary action can be imposed.

B talks about professional misconduct.

A. It says "Commits an act that constitutes professional misconduct under the New York State Education Law or breach of professional ethics."

Q. Correct. C says "Fails to abide by the By-laws, Rules and Regulations or policies of the hospital or the Medical Staff."

D says "Engages in any activities that

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failure to abide by the House Staff Manual, By-laws, Rules and Regulations, or policies of the Medical Center; for falsification of any medical center document; any conduct that may threaten the safety or welfare of a patient, employee, other physician, or visitor; or any other conduct that may be detrimental to Medical Center Operations."

Did I read that correctly?

A. Yes, and it's part II that you have not read.

Q. "II. Mount Sinai will notify each affected House Staff Officer immediately:

"A. Of a decision to discontinue any training program for any reason; and/or.

"B. Upon receipt from the Accreditation Council for Graduate Medical Education or the Commission on Dental Accreditation of any notification regarding non-accreditation or probationary status of any training program."

That's what 2-A and B say, correct?

A. Right.

Q. Now, in your complaint, and I'm talking about your breach of contract claim at the

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moment, you allege that, in paragraph 14, "In each of her years as an employee, Dr. Varughese and the Hospital were parties to an ACGME Resident employment contract (the 'Contract') governing their relationship. The Contract incorporated by reference the Mount Sinai Medical Center house Staff Manual including a section entitled, 'job retention.'"

Paragraph 15 says, "Through her date of termination, Dr. Varughese did not commit any acts defined under the 'Job Retention' section for her to have been suspended or terminated from her position in the pathology residency program. Dr. Varughese's contracted employment to Mount Sinai Medical Center could be terminated only if the 'house staff' failed to abide by the By-laws, Rules and Regulations, or policies of the Hospital or of the medical staff, falsified a Hospital document, threatened the safety or welfare of a patient, employee or other physician or for any action that may be detrimental to the Hospital operations."

That's what those two paragraphs say.

So Dr. Varughese, I'm just trying to

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understand, is the basis for your claim that Mount Sinai breached its resident's contract with you that the house staff manual provision dealing with job retention, you did not in your view commit any of the acts that are enumerated in that section? You can look at it again obviously.

A. No.

Q. I'm sorry, no, you did not commit any of those acts?

A. No, I did not.

Q. And the house staff manual also contains obviously the section on disciplinary action that we looked at.

A. Right.

Q. And that also is incorporated into the contract, correct?

A. Right.

Q. And the job retention section makes specific reference to the disciplinary action section.

A. Right.

Q. Is there any other provision of either the resident's contract or the house staff manual that you believe was breached by Mount Sinai other

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than the job retention provision that you refer to in the complaint?

A. Yes. I believe that the hospital breached its responsibility to me to provide references and allowed me to move on with my career in terms of acting in good faith with the work that I had completed absolutely satisfactorily for three years.

Q. So you have the contract.

A. Sure, I have the contract right here. In fact, I will point out which one I'm speaking of in a second.

Q. Please. Take your time.

A. This is page 996, paragraph 9. It says here: "If a training program is discontinued his or her program director will assist the house staff officer in obtaining placement in another approved program."

Q. Sorry, what are you reading from?

A. Page 996, paragraph 9.

Q. I'm not deaf, doctor. Go ahead.

A. It says, the last sentence of paragraph .9 or paragraph 9 states: "If a training program is discontinued his or her

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program director will assist the house staff officer in obtaining placement in another approved program."

Then it also says: "House staff officers will be notified in writing at least four months before their expiration of their employment if their contracts are not to be renewed for the next year of a given residency program or if they will not be approved for the next postgraduate year of training."

They didn't give me my contract for my final year of residency until the end of March. They should have, you know, if they did not want me to be in that program any more, which they really did not, and they were constantly harassing me every day when I was at work, they did not indicate to me that they were not interested in me being there, I could have sought out another residency program elsewhere. They really did not want me to complete my residency there.

Instead of constantly creating pretextual reasons and harassing me at work every day, I could have gone to another residency program. There were plenty of programs that are

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2 willing to accept me as a resident there. So this
3 is a breach of contract and breach of good faith
4 and fair dealing.

5 Q. So the contract was signed by you on
6 March 24th, correct?

7 A. Right. And I understand it says here
8 that if the training program is discontinued,
9 which may mean the program is shut down, but in my
10 opinion, you know, my training program was
11 discontinued for me abruptly because I was
12 pretextually terminated from the residency program
13 where I did all of my work without any problem.
14 There was no performance issues. Even you had
15 stated that at the -- recently even to
16 Judge Francis. So....

17 Q. Dr. Varughese, you understand, don't
18 you, that the sentence "if a training program is
19 discontinued," it doesn't mean if an individual
20 resident is terminated. It means if the program
21 is shut down, to use your expression.

22 MR. WRONKO: Form objection.

23 A. Yes, but it also means that if I'm not
24 working there anymore and they decide to fire me,
25 they have a duty to provide appropriate references

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2 that's in keeping with my work record.

3 Q. Is there --

4 A. Not something that is arbitrarily and
5 pretextually made up to prevent me from obtaining
6 employment anywhere else and practice going
7 forward.

8 Q. Is there anything in this contract
9 that talks about the obligation on the part of the
10 hospital to provide you with references?

11 A. Well, you know, I have not, you know,
12 been able -- I didn't read it right now, so I
13 cannot tell you, answer that question at the
14 moment.

15 Q. And you signed the contract on
16 March 24th, right? Last page, Dr. Varughese.

17 A. Right. At the end of --

18 Q. When did you get it?

19 A. I got it at that time.

20 Q. So that --

21 A. They didn't provide me with this
22 contract till after March 1st.

23 Q. So any other provisions of the
24 resident's contract that you believe were breached
25 by Mount Sinai? And if you want to take five

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2 minutes to read the agreement, be my guest, or ten
3 minutes.

4 A. Yes, I would like to take five minutes
5 to read the contract.

6 Q. Be my guest.

7 MR. McEVROY: Why don't we take a five-
8 or ten-minute break so Dr. Varughese can do
9 that.

10 (A recess was taken from 10:16 a.m. to
11 10:22 a.m.)

12 A. All right.

13 Q. Have you had a chance to read it?

14 A. Yes.

15 Q. Any other provisions of the resident's
16 contract that you believe the hospital breached?

17 A. Yes.

18 Q. What are those?

19 A. For instance, Bates number 992, it
20 says: "The house staff officer agrees to comply
21 faithfully with and be subject to the policies,
22 rules and regulations of the hospital and the
23 Mount Sinai School of Medicine of New York
24 University, (hereinafter 'Mount Sinai'). These
25 include, but are not limited to, the policies

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2 found in the house staff manual which maybe
3 changed from time to time. The house staff
4 officer also agrees to accept the following
5 responsibilities." And it lists from A to J, I
6 believe.

7 Essentially, this contract is what I'm
8 stipulated to work under. The department of
9 pathology had changed the stipulations of my
10 contract by instituting new policies that we had
11 to sign under the threat of discipline or
12 termination from the program, which was not from
13 the hospital, the board of trustees. It was
14 rather from some arbitrarily created provisions,
15 which I don't even know where it came from.

16 And there were five different things
17 that were listed, five different policies that
18 were created, newly created policies, and there
19 was also a variety of other policies in regards to
20 disciplinary action that were newly instituted by
21 the department as well, which are not in keeping
22 with the house staff manual and also not in
23 keeping with this contract. And that was a beach
24 of my contract to do so.

25 Q. So when you talk about, I think you

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2 said there were -- was it five policies that you
3 said?

4 A. Five or six policies. I'm not sure.

5 Q. Were those the policies that were
6 instituted in I think August of 2011 that we've
7 had testimony about?

8 A. August 15, 2011 was when it was due
9 and it was instituted at that time. I believe
10 there was a meeting, there was a verbal meeting
11 regarding this policy. I was not at this meeting
12 and I had complained about these things, the
13 institution of these new policies at that time
14 because I found them to be in excess of my
15 contract. And I had voiced my concerns regarding
16 those new policies.

17 And I believe that was a breach of my
18 contract to institute such new policies after
19 the -- after signing this contract and after me
20 having worked there for over three years, for me
21 to be stipulated to new sets of rules that were
22 very well in excess of my understanding of how the
23 department worked, how it had been working in
24 terms of education, in terms of requirements for
25 senior residents. That was all changed that year.

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2 That's not how it worked before.

3 I thought that was a breach of my
4 contract in terms of adherence to ACGME
5 institutional and program requirements, which is
6 also on Bates page number 992, part two. That's
7 point I. And it says -- I believe the hospital
8 breached that agreement with me when they did not
9 provide me with the adequate educational
10 requirements that I needed to meet my American
11 Board of Pathology board exam.

12 And also they breached -- the program
13 was also cited 19 times or for 19 violations by
14 ACGME as well. And I believe they, you know, that
15 was a breach in terms of good faith and fair
16 dealing, adherence to the contract to what my
17 understanding was was going to be the education
18 that I was going to get there and the training
19 that I was going to get there, because the
20 hospital did not comply with ACGME requirements.

21 Then the hospital -- then in terms of
22 paragraph four, it says here: "House staff
23 officer agrees to abide by Mount Sinai's drug-free
24 workplace policy and statement. Mount Sinai has a
25 written policy of addressing physician impairment,

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2 including impairment due to substance abuse. (See
3 house staff manual page 34 through 36.)"

4 And while I complied with this policy
5 and while McCash and Jordan both did not follow
6 this policy and also Dr. Fowkes who apparently
7 still works there did not follow this policy, they
8 still had their job there and that's a clear
9 breach of contract and there was no punishment for
10 them. There was no discipline for them.

11 In fact, all the discipline or any
12 action that was taken in regards to that has been
13 provided already according to you for discovery.
14 So it's largely concerning that there was no
15 action taken against them even though they clearly
16 breached the contract and I reported them for
17 breaching this particular rule.

18 Q. I assume you're talking about the
19 drinking on the job.

20 A. Right, drinking on the job, you know,
21 during work hours and while supervising another
22 resident, by Dr. Jordan, and by Samuel McCash who
23 regularly called for dementia rounds at the
24 hospital. I mean, it's largely concerning.

25 Q. Any other provisions of your

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2 resident's contract that you believe was breached?

3 A. Yes, this is paragraph 5, part G. It
4 says here: Leaves of absence (sick leave,
5 personal leave, other leave circumstances. Leaves
6 of absence and effective leave time on the
7 completion of house staff training and/or
8 eligibility for specialty board examinations will
9 be determined by the provisions of the house staff
10 manual currently in effect and the policies and
11 procedures of the hospital and training program.

12 Then it says: While educational leave
13 may be granted, payment for expenses for attending
14 conferences, if any, will be decided by the
15 program director.

16 In terms of my leave, requests for
17 leave of absence, I complied with the house staff
18 manual and the provisions of the hospital and the
19 provisions of the law itself. But I was still,
20 you know, prevented from attending work just for
21 requesting a leave.

22 And there was this fabrication of all
23 this, you know, issues regarding my health, my
24 mental health actually, which was extremely
25 defamatory, which I had no idea was occurring at

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2 that time until now, and the hospital never
3 approached me regarding any of these issues, did
4 not tell me what was going on, did not tell me
5 people were making these allegations and defaming
6 me, and they were acting on it.

7 That's breach of contract. While I'm
8 following this policy to a T, they're preventing
9 me from being able to follow the policy. That's a
10 breach of contract and a breach of good faith and
11 fair dealing.

12 I'm a professional. I have certain
13 expectations of what is going to take place. I
14 know what the rule is and I know what the law is.
15 I read it and I know what my rights are. And
16 here's the hospital that's intent on breaking the
17 law and breaching my contract while breaking the
18 law.

19 And then there is, um, what is this
20 now? Paragraph 7, part D. It says here that
21 before commencement of the term hereof, the house
22 staff officer shall have sustained no disciplinary
23 action, nor have any pending disciplinary action
24 in connection with any medical training program or
25 have any malpractice action commenced against him

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2 or her as disclosed in writing to the hospital.

3 I believe when I was placed on
4 disciplinary action the reason for me being placed
5 on disciplinary action for the one event that
6 occurred in December 2010 was pretextual. I had
7 met the requirements. I had done everything that
8 I was supposed to do and they still placed me on
9 disciplinary action because it was pretextual and
10 it was meant to harm my career and my future
11 prospects.

12 Because what happens when you're put
13 on disciplinary action? It's something you had to
14 report to the state going forward. It's a mark on
15 your career and your future. It was malicious, it
16 was punitive, it was discriminatory, it was
17 retaliatory and all motivated by racism and
18 sexism.

19 So this was clearly a breach of my
20 contract again. You know, it was a lack of good
21 faith and fair dealing.

22 Then moving on to point, you know,
23 paragraph 8, part C, it says here that he or she
24 has the sole responsibility for guaranteeing
25 compliance with the institutional policies and

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1 Varughese
2 procedures governing resident duty hours worked,
3 in compliance with New York State hospital, part
4 405; and with the ACGME common program
5 requirements part 6, semicolon.

6 I complied with everything, but the
7 hospital had requested that we not violate or
8 breach duty hour rules under pressure and under
9 threat, saying that we cannot have a duty hour
10 violation even if we worked and we had to lie
11 about our work hours. The hospital repeatedly
12 said that.

13 And that's a breach of my contract.
14 It's not specific to me because it happened to
15 everybody else and we had group meetings about how
16 we're not allowed to report duty hours honestly.

17 Then we in terms of ACGME common
18 program part 6, I complied with that. That has to
19 do with insuring that as a senior resident I'm
20 allowed to like manage my own duties. The ACGME
21 common contract that I had access to was from when
22 I started my residency, which had said that as a
23 senior resident when you're in your final years of
24 your training you are responsible for your
25 education and overseeing that you meet, you know,

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2 you meet the needed, you know, didactics and
3 training to be able to pass the board exam and
4 practice as an independent physician, which is
5 what I was doing. And I'm being penalized by it
6 by this hospital.

7 Once again, that's a breach of my
8 contract and a breach of good faith and fair
9 dealing.

10 And we already mentioned how I was not
11 given the contract before March 1st of 2011.

12 And then in terms of, wait a second,
13 next paragraph, paragraph 13, it says: Mount
14 Sinai shall comply with comprehensive, fair, and
15 reasonable policies regarding grievance procedures
16 and due process, where applicable. Then it says
17 (see house staff manual pages 13, 29 to 31 and 36
18 to 40.)

19 These policies minimize conflict of
20 interest and adjudication of grievances and
21 include, but are not limited to, grievance
22 procedures and due process for disciplinary
23 actions taken against residents, for resident
24 complaints and grievances related to work
25 environment, sexual and other harassment,

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1 Varughese
2 discrimination, and accommodation, of house staff
3 officers with disabilities.

4 I mean, in terms of this particular
5 promise to me, this contract, this was breached.
6 You know, I complained about somebody who was
7 harassing me nonstop and creating a very hostile
8 work environment for me and no action was taken
9 against this individual, and the person who
10 corroborated the evidence was, you know, left out
11 of the discussion and I was continuously harassed.
12 And, you know, they have policies, but they don't
13 follow their policies.

14 This is their house staff manual
15 policy for a variety of things. It says page 13,
16 29 to 31, 36 to 40. I read those policies. I
17 thought those were my rights, and I had the right
18 to bring forward a complaint if something was
19 happening to me that was really obstructing my
20 ability to work and preventing me from my doing my
21 work like anybody else is doing.

22 And guess what? The hospital did not
23 do anything. They did not step in and take an
24 action against Samuel McCash. Instead they took
25 actions against me. And they allowed McCash to

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1 Varughese
2 defame me, lie about me, make all these false
3 statements without ever asking me, Leena, did you
4 delegate "all your cases" to the moonlighters?

5 McCash says in one e-mail that I
6 delegated all my cases to other people and I
7 didn't do my work, which was completely false. If
8 Pessin tells me I have looked through the case
9 work, I saw all the work that you did, I know what
10 you did and you didn't do that much work today.

11 I'm like, What are you talking about?

12 Q. Right now we're talking about the
13 breach of your contract.

14 A. This is the dialogue. You know, I'm
15 telling you --

16 Q. We'll talk about your --

17 A. Don't interrupt me, OK? Because I'm
18 trying to tell you like --

19 MR. WRONKO: You are interrupting her
20 and you're completely misconstruing what she
21 was saying. She was explaining the
22 rationale for why they didn't follow their
23 policies. So your interruption isn't
24 appreciated.

25 You can finish your answer.

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2 Q. Go ahead.

3 A. Dr. Pessin did not tell me, she did
4 not ask me, Did you just give all your cases to
5 somebody else to do? I would have told her I
6 didn't do that.

7 But she took McCash at face value and
8 she believed him even though she can go into the
9 system and she said she looked at the records and
10 she would know that he was telling a lie. He was
11 a liar. She would know that, but she still
12 believed him and she took actions against me, not
13 anybody else.

14 How discriminatory like racist, sexist
15 agenda is that? It is protectionism for the
16 Caucasian white doctor while, you know what?
17 Let's push the Indian woman to the side because we
18 can. That's clearly a breach of my contract. I
19 mean, the hospital did not uphold this.

20 You know, Art Figur, he wears many
21 hats, in his own words. I reported what happened
22 to me to him. Did he do anything to step in? No.
23 The hospital did not. The hospital systematically
24 harassed me and retaliated against me and
25 continued this racist sexist agenda and

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1 Varughese

2 discrimination against me.

3 And then they created all this other
4 stuff going forward that I wasn't even told were
5 problems. They just made stuff up even though
6 there's testimony from other people saying that,
7 no, Dr. Varughese is not any more absent than
8 anybody else.

9 You know, there's a high degree of
10 people who get ill at work and don't come into
11 work for a variety of reasons. It wasn't
12 something that had to do with me. And they, you
13 know, the hospital accuses me of being absent.

14 Then in terms of, you know, they just
15 make up more and more reasons. I don't know who
16 is responsible there, but it's really concerning
17 as a minority to see what has happened to me. It
18 really is concerning to me when I know like a lot
19 of minorities who work there.

20 Q. Any other provision of this contract?

21 A. Yes, other provisions are here too.
22 Paragraph 16, it says here: House staff officer
23 shall at all times comply with all applicable
24 federal, state, and local laws, rules and
25 regulations. In addition, the house staff officer

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1 Varughese

2 shall at all times comply with the policies and
3 procedures of the institution in which -- which
4 such individual is providing services. I did all
5 that. But the hospital I don't think did its fair
6 share in doing that.

7 Then it says, paragraph 18, it says
8 again this agreement is complete, is a complete
9 understanding between the parties and may not be
10 changed orally.

11 It is a complete understanding. So
12 why is my contract being changed after my contract
13 is signed? Why is it being changed by the
14 department?

15 There's a board of trustees. Where
16 does it say here? It says here, some paragraph
17 here, that this -- well, this contract used to say
18 that it was written and provided by the board of
19 trustees. But anyway, it may say that somewhere
20 or not in there anymore. But that's besides the
21 point. But the fact is paragraph 18 clearly
22 states this cannot be changed.

23 Q. Orally.

24 A. Right. And the thing is a lot of this
25 contract I had disagreements with it and I was

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1 Varughese

2 told if I didn't sign the new policies I would be
3 terminated from the program. Like I had no
4 options.

5 This is the problem. There is no due
6 process or due diligence and the contract promises
7 due process and due diligence on a variety of
8 issues, but there isn't any. If the department is
9 going to go and change contracts willy-nilly,
10 what's the point of having a contract then?

11 Q. Is that it? Are those all the

12 provisions in the contract you believe were
13 violated or breached?

14 A. Well, I do believe those provisions
15 that I have just stated previously have been
16 breached.

17 Q. So let's go back and talk about those.

18 Paragraph 16, which you just read,
19 that paragraph imposes obligations on you as the
20 house staff officer, correct?

21 A. Right. And which I complied with. I
22 complied with all applicable federal, state, and
23 local rules, laws and regulations. I've complied
24 with everything. But when did I come into the
25 hospital with a bottle of Captain Morgan rum and

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1 Varughese

2 complete, drink nearly the entire rum at work?

3 And the procedure --

4 Q. So you complied with paragraph 16,
5 correct?

6 A. Of course I did. Do you have a point
7 that I'm saying that I did not?

8 Q. I didn't say that.

9 Paragraph 13, Dr. Varughese, does
10 paragraph 13 anywhere say that the complaint will
11 sort of turn out the way you would like it to?
12 And by that I mean you say that, what I heard you
13 say was that you were unhappy with the fact that
14 after you complained about Dr. McCash no action
15 was taken against him, right?

16 MR. WRONKO: Form objection. What's
17 the question?

18 MR. McEVOY: Would you like it read
19 back? I said, Dr. Varughese was unhappy
20 with the fact that after she complained
21 about Dr. McCash no action was taken against
22 him; is that correct?

23 MR. WRONKO: Form objection. You can
24 answer. It mischaracterizes her testimony,
25 but you can answer.

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2 MR. McEVOY: I think we've heard her
3 say that many times, but whatever.

4 Q. Go ahead.

5 A. That's not what I said. This
6 paragraph states that there will be a
7 comprehensive fair reasonable policy regarding
8 grievance procedures and due process where
9 applicable. Then it says minimizes conflicts of
10 interest and adjudication of grievances.

11 That did not happen. I know for a
12 fact Arthur Figur and Melissa Pessin had some sort
13 of, you know, cordial relationship. She sought
14 him out. She didn't go to Barry Stimmel initially
15 because she knew he probably would say, Well,
16 let's look at the facts here. However are we
17 going to proceed on this?

18 She went to Art Figur because she
19 knows that he's going to do what she wants.

20 MR. McEVOY: Mr. Reporter, would you
21 go back and read the answer that
22 Dr. Varughese gave when she identified
23 paragraph 13 as having been violated the
24 first time.

(A portion of the record was read.)

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MR. WRONKO: Mr. McEvoy just told me he has all the time in the world to do this deposition. The first part of this deposition he spent wasting time reading large swaths of documents that we can read for ourselves. Now he's wasting about 15 minutes having the reporter go back to try to find a piece of testimony rather than just moving on and questioning the witness or seeking clarification.

I'm of course going to make objection to any further continuation of this deposition after today because this is absolutely harassing.

MR. McEVOY: Are you done?

MR. WRONKO: Yes, I'm done.

MR. McEVOY: First of all, first of all, OK? I did not spend 15 minutes reading into the record. The witness actually asked me to read additional portions that I tried to summarize. The witness has read substantial portions into the record.

More importantly, OK? the witness is nonresponsive. I understand Mr. Wronko has

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a need to protect his witness, but the witness gives long narrative responses to simple straightforward questions.

I don't interrupt the witness usually, because quite frankly what's the point of arguing with the witness --

MR. WRONKO: You asked how the contract was breached.

MR. McEVOY: I didn't interrupt you.

MR. WRONKO: That's fine, but you're completely misconstruing the record. You asked how was the contract breached and she answered your question.

MR. McEVOY: If you bang your fists on the table one more time we can have a chat with the magistrate.

MR. WRONKO: That's fine, counsel.

MR. McEVOY: Good, fine. What I said was, since the witness is in my view not responding to the questions, I said to you, I have all the time in the world to complete this deposition.

What I mean by that is, I was hoping to finish it within another day or less. If

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this is what we're going to do, the deposition, I can take as many days of this deposition as it takes to be completed, and if Mr. Wronko want to raise an objection with Magistrate Judge Francis he is perfectly free to do that.

My suggestion is if you want to do that, do it. Be my guest. Would you like to do that now?

MR. WRONKO: Do what now?

MR. McEVOY: Whatever it is you want to do.

MR. WRONKO: I want to move on. That's what I want to do.

MR. McEVOY: Good, let's try and do that.

THE WITNESS: Oh, I also noticed something else that was breached.

BY MR. McEVOY:

Q. Tell me what that is.

A. Paragraph 12 says: The parties have entered into this agreement in good faith and acknowledge their respective ethical and legal obligations to fulfill this agreement until its

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Varughese

expiration date.

I believe what had occurred over the course of the year from September 2010 to September 2011 was not in good faith and did not acknowledge their respective ethical and legal obligations to fulfill this agreement until its expiration date.

Q. OK. With regard to paragraph 8-C, Dr. Varughese, you said, I believe, that under the ACGME common program requirements part 6 that as a senior resident you were responsible for your own education; is that right?

A. I'm sorry, which one? Paragraph what?

Q. 8-C.

A. 8-C. Right. The ACGME common program requirements part 6, it was revised in July of 2011. But prior to that I believe it included a part that said that senior residents are responsible for their education and attending conferences. I am not sure exactly how it was worded, but it did stipulate that.

But that, the ACGME requirement was changed at some point. I didn't realize it had been changed until July or something, you know,

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1 Varughese

2 like until later on when I looked at the ACGME
3 program requirements.

4 Q. What was your understanding of being
5 responsible for your own education?

6 A. Well, in terms of the didactic
7 conferences that the pathology department used to
8 have on Mondays to Thursdays really, at 8 a.m.,
9 since I have been there for three years and I
10 completed all my work satisfactorily, I actually
11 went to all those conferences, and every year it's
12 the same conference. They don't change it much.
13 In fact, it's the same PowerPoint presentation
14 that gets presented over and over again year after
15 year.

16 By my third year -- by my fourth year
17 actually I had went through all the presentations.
18 I already knew what everything was, and my
19 education in terms of as a developing professional
20 required that I attend other conferences such as
21 tumor boards, multidisciplinary conferences, a
22 variety of other like more advanced surgical
23 pathology conferences.

24 That's my understanding and that's
25 what I thought I was supposed to do. That's what

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1 Varughese

2 I had seen people before me do in terms of, let's
3 see, people who had graduated prior, like Claudia
4 Reck Warren (phon), these are people who I know
5 had graduated from the program. This is what they
6 did. And Christine Mounq. Who else was there?

7 Mark Smothers. If he wasn't
8 presenting a conference, he rarely attended a
9 conference in his fourth year. Yes, first, second
10 and third year they did attend them, but fourth
11 year they did not really attend any of these
12 conferences.

13 Lanjing Zheng, even him, he did not
14 attend the conferences when he was a fourth year
15 resident. He had stuff going on. He was living
16 in western New Jersey and he rarely ever attended
17 didactics as a fourth year resident.

18 This applies to everybody else too.
19 Like Edward Trevino, the year before, he rarely
20 attended pathology conferences.

21 I mean, I think this kind of applies
22 to like across the board with people.

23 Q. Who told you not to report your duty
24 hours honestly?

25 A. This was my first and second year
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1 Varughese

2 mostly. And third and fourth year it was just
3 sort of e-mails from Allene Carter. But before
4 that John Fallon. He had said not to report duty
5 hours honestly. And Allene Carter also, she was
6 program coordinator at that time, and she said do
7 not report duty hours honestly because there's
8 some sort of major fine from the state if there's
9 a violation of the 80-hour rule.

10 We were told that we can stay and do
11 the work, but we are not supposed to talk about,
12 report it, and if we did need time to, like more
13 time to do our work because of all the
14 disorganization and issues within the department,
15 we were told not to report that or come to work
16 unprepared.

17 Q. Who is John Fallon?

18 A. John Fallon is, um, he used to work at
19 Mount Sinai Medical Center. He is best friends
20 with Allen Schiller and he's another pathologist.

21 Q. You said that when the new policies
22 were implemented on August 15, 2011 you complained
23 about them. Who did you complain to?

24 A. While I worked at the graduate medical
25 education office, Dr. Barnett and Paul Johnson.

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1 Varughese

2 Q. I thought you also said,
3 Dr. Varughese, in addition to the policies, those
4 five policies, there was also a change in
5 disciplinary policy. Did you say that?

6 A. Yes. Right.

7 Q. What was that change?

8 A. Right. The disciplinary policy, I
9 believe the chief residents were given now
10 authority to discipline coworkers. I mean,
11 they're not supervisors by any means of the word.
12 Essentially they are given some administrative
13 duties to e-mail and make schedules to some
14 degree, and they're supposed to step in for
15 certain types of situations, but they are not my
16 supervisors.

17 For instance, Adrienne Jordan is, you
18 know, she was a junior when I was -- in my fourth
19 year she was a PGY-3 year. I mean, for her to
20 discipline me it seems ludicrous on its face,
21 because she's a junior resident. She's not my
22 supervisor. She does not have any better
23 understanding of pathology or medicine than I do.

24 But to give that kind of ability to a
25 junior resident or even a coworker seems sort of

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1 Varughese
2 in excess of my contract and not in keeping with
3 medicine and medical hierarchy that was so touted
4 by Scott Barnett.

5 Q. And what's the basis for your belief
6 that the disciplinary policies changed to permit
7 chief residents to discipline other residents?

8 A. Excuse me?

9 Q. You said that you thought the
10 disciplinary policy was changed so that chief
11 residents had authority to discipline other
12 residents, right?

13 A. Right. I think that's what that
14 policy --

15 Q. I'm sorry, you think it's one of the
16 five policies that came into effect in August of
17 2011?

18 A. August 15th, right. I understand like
19 in terms of the rest of the hospital there is
20 administration that's an outside-of-residency
21 program, such as nurses and, you know, supervision
22 of nurses and supervision of other employees.

23 But in terms of professionals, MDs,
24 different rules apply for the code of conduct,
25 professionalism, discipline. Chief residents

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1 Varughese
2 should not have any say in any of that.

3 Q. In paragraph 60 of your complaint --
4 do you have the complaint?

5 A. Yes.

6 MR. WRONKO: I think it's been marked.

7 MR. McEVROY: It is not an exhibit, but
8 I wonder if she has it.

9 A. Yes, I have it.

10 Q. So would you read that to yourself and
11 let me know when you're done.

12 A. OK.

13 Q. Tell me where it says in the
14 resident's contract that you are to be given, and
15 I'm quoting, notice of any and each failure in a
16 timely manner not in a final write-up or after
17 termination?

18 A. I mean, that's basically, you know,
19 stipulated. There's supposed to be a four-month
20 notification of -- this is paragraph 9 of the
21 resident contract. It says notification of --
22 notifications of nonrenewal or nonpromotion will
23 include the reason for the action and are subject
24 to the hearing rights found in the house staff
25 manual. Then it says "(see pages 29 to 31)."

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1 Varughese

2 It says that here in my contract.

3 Then it says like they're supposed to tell me four
4 months before the expiration of their appointment
5 about the contract. OK, forget that. Don't write
6 that. Anyway, it says that there in terms of like
7 reasons for action, all this stuff.

8 Q. I'm sorry, where are you looking?

9 A. This is paragraph 9 of the contract.

10 It says notification of nonrenewal, so on, I just
11 said that. Like I'm supposed to be told that in a
12 timely manner.

13 Anyway, this is a residency program.
14 It is an educational venture to a large degree and
15 the hospital and the residency program has a duty
16 to inform me of my failure as it comes up.

17 Q. And that was my question. Where does
18 it say that in your contract, and I'm just
19 beginning quoting from the complaint, that you're
20 to be given notice of any and each failure in a
21 timely manner, not in a final write-up or after
22 termination?

23 If you've already told me what you
24 think the basis of that is, that's fine. If
25 there's something else, tell me.

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1 Varughese

2 A. Well, it says here it's guided by
3 ACGME policies. And I believe ACGME says that in
4 terms of educational requirements it's supposed to
5 be constructive criticism, not to be -- you're
6 supposed to inform people of what the issues are
7 as you go along, not, you know, not to be
8 blindsided or pretextually terminated from a
9 program for something that everybody else does.

10 I mean, you want me to point to the
11 contract where it says that? In the contract? Is
12 that what you're asking?

13 Q. Or any source that you think. Well,
14 what the provision says is --

15 A. Right, that's based on the ACGME
16 resident contract. It says here on my contract
17 ACGME resident. And I believe there are
18 provisions within the ACGME guidelines that say
19 that's how it's supposed to be.

20 Q. So now, Dr. Varughese, let me turn to
21 your defamation claim. In the complaint if you
22 look at paragraph 143 --

23 A. 43?

24 Q. 143. And if you read 143 and then
25 also read 144 to yourself and let me know when you

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Varughese

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2 are done.
3 **A.** OK.
4 **Q.** So other than Dr. Firpo, did anyone
5 else prepare or was involved in preparing the
6 summative evaluation?
7 **A.** I don't know.
8 **Q.** Who did Dr. Firpo send or give this
9 summative evaluation to?
10 **A.** Well, he sent this to -- I was trying
11 to get my medical license from New Jersey and
12 Pennsylvania to increase opportunities for
13 completing my residency in pathology with the
14 final year of residency in pathology and to make
15 myself a better candidate for residency and he
16 sent this to the FCVS. It's an acronym for
17 something.
18 **Q.** What is it the acronym for?
19 **A.** It is a medical licensing facilitating
20 agency. They facilitate doctors to get their
21 medical licenses from a variety of states.
22 **Q.** Where is it located?
23 **A.** I'm not sure where it's located.
24 **Q.** All right. And how do you know he
25 sent it there?

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Varughese

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2 **A.** Because I got a copy of the record of
3 all the information that they received and they
4 sent it to me and they showed me that this was
5 what they received and they were concerned about
6 what it said.
7 In fact, when I went through this
8 process with FCVS, the hospital did not, would not
9 submit the forms. They would not submit the form
10 that was being requested for my licensing. It was
11 constantly interfering with my ability to obtain,
12 you know, further my career and obtain appropriate
13 employment. And it took three months. I have
14 these e-mails going back and forth with FCVS about
15 what's going on? Why are you not getting this
16 information.
17 And then they had forged Allene
18 Carter's name no less on a form and sent it to
19 them. And they said, Allene Carter, is she a
20 physician? Because ACGME clearly states only a
21 physician can sign these forms. And FCVS also has
22 rules stating that physicians are supposed to sign
23 this form. Their forms say physicians are
24 supposed to sign this form, MD program director or
25 something.

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Varughese

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2 And Allene Carter's name is clearly
3 forged on it and then she submits this form that
4 is allegedly the summative evaluation and then
5 this goes on and on back and forth for months.
6 **Q.** So when you're referring to a form,
7 Dr. Varughese, are you talking about the summative
8 evaluation or some other form?
9 **A.** This is the summative evaluation form
10 that has to be submitted to the FCVS for dispersal
11 to the state licensing boards.
12 **Q.** And did FCVS also require other
13 documentation about your time as a resident in
14 addition to the summative evaluation?
15 **A.** I'm not sure right now.
16 **Q.** And so as I understand it, I just want
17 to make sure I understand, that when you saw what
18 had been submitted to FCVS by Mount Sinai you saw
19 your summative evaluation.
20 **A.** Correct.
21 **Q.** Where else did Dr. Firpo or anyone
22 else at Mount Sinai send your summative evaluation
23 other than to FCVS?
24 **A.** Well, in terms of providing references
25 in a timely manner for Robert Wood Johnson

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Varughese

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2 employment opportunity, Mount Sinai Medical did
3 not do that in good faith. And that was a lack of
4 good faith and fair dealing. They did not inform
5 Robert Wood Johnson that I had finished three
6 years of my residency satisfactorily and I should
7 be allowed to do my fourth year residency at
8 Robert Wood Johnson where they wanted to hire me
9 as a fourth-year resident.
10 They did not show that good faith and
11 fair dealing in that, um, to give an appropriate
12 reference at that time to allow me to complete my
13 residency. They interfered with my employment
14 opportunity there.
15 Then again with, I believe Oregon
16 State, or someone called, and once again this was
17 after March 8th, and they did not provide
18 appropriate references.
19 **Q.** So with regard to Robert Wood Johnson,
20 I take it from what you said that Mount Sinai or
21 Dr. Firpo did not provide the summative evaluation
22 to them, correct?
23 **A.** They did not provide summative
24 evaluation to them at that time. When they called
25 for a reference they did not provide the

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1 Varughese

2 reference.

3 In terms of summative evaluation it
4 was not done until March 8th or 7th or whatever it
5 was, and it was much later. And....

6 Q. So my only question, Dr. Varughese,
7 is, to your knowledge did Mount Sinai or Dr. Firpo
8 provide at any time the summative evaluation to
9 Robert Wood Johnson?

10 A. Oh, I don't know about that,
11 because -- I'm not sure, because they knew that I
12 was interested in this employment they should have
13 provided it. It was required.

14 Q. And the same question with regard to
15 Oregon State I think you said. Do you know
16 whether Dr. Firpo or anybody at Mount Sinai ever
17 provided the summative evaluation to anyone at
18 Oregon State?

19 A. I would not know. I mean, I'm sure as
20 we go on with discovery we may find more
21 documentation relating to this issue.

22 Q. I understand. So again, other than
23 FCVS, where else, if anywhere, did Mount Sinai or
24 Dr. Firpo send or give the summative evaluation?

25 A. Well, this punitively created

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1 Varughese

2 summative evaluation that's largely false, it was
3 sent to my attorney. And it was sent to, you
4 know, it was also sent to me to disperse as a
5 record of my work, as a record of my work that I
6 completed over three years, and obviously it's not
7 something that can be used.

8 I mean, which is essentially I cannot
9 further my career and I cannot have any
10 professional opportunities if this is still in
11 existence. But it's so blatantly false, it's
12 punitive and malicious.

13 I never had issues with patient care.
14 My interpersonal communication skills are very
15 good. I'm very competent at that. And
16 professionalism, I'm also extremely professional.

17 Q. Anyplace or anyone else to whom the
18 hospital or Dr. Firpo gave a summative evaluation?

19 A. I did apply to a position at the
20 University of Pennsylvania and I met with the
21 program director there. I'm not certain if, you
22 know, if this was sent there or not.

23 Q. The question is, do you know of
24 anywhere else that it was sent or anyone else to
25 whom it was given?

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1 Varughese

2 A. Well, I would not have information
3 regarding that.

4 Q. Now, Dr. Varughese, in the complaint
5 that is the only allegation in support of your
6 defamation claim.

7 So my question to you is, other than
8 the summative evaluation that we just had
9 testimony about, is there any other statements or
10 documents that were made by anybody at Mount Sinai
11 about you that you believe are defamatory?

12 A. Yes.

13 Q. OK. So here's my question. So I
14 would like you to tell me who made the statements
15 you believe are defamatory, when they were made,
16 and who they were made to.

17 OK? Can you do that?

18 A. Right. Let me start with --

19 Q. I'm going to let you start and I'm not
20 going to stop you. But I just want to make sure
21 you to understand what I'm asking you to do. Who,
22 when and to whom? Who made them, what they said,
23 when they said them and to whom they said it.
24 That's what I would like you to do.

25 A. Let me write that down.

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1 Varughese

2 Q. Sure. Who made the statement you
3 believe is defamatory or who authored the document
4 you believe is defamatory; what they said, when
5 they said it and who they said it to.

6 A. OK.

7 Q. OK?

8 A. So in terms of the first house staff
9 affairs committee meeting, Adolfo Firpo made
10 statements regarding my mental health to the
11 committee and the audience that was there
12 regarding -- made a variety of defamatory
13 statements regarding my mental health, which was
14 extremely defamatory. It was intended to create
15 and cause harm, extremely malicious and it was
16 meant to prevent me from, you know, being able to
17 argue my point effectively.

18 And the statements were made and it
19 had the intended consequences, which you know it
20 really affected me because I knew those were
21 false. He was making these false statements and
22 it really affected me.

23 What's his name? Patrick Lento at
24 that same hearing, he made statements regarding --
25 he said I never answered a page, I never did

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1 Varughese
2 things, which clearly was false. I answered
3 pages. I did my work. I worked there for over
4 three years.
5 There hasn't been -- there wasn't a
6 single incident where I did not really answer his
7 page, but he made that up. And he said that and
8 he's been saying that as if that's the reality.
9 It's not reality. He just made it up.
10 And that was made to the House Staff
11 Affairs Committee and the audience at large, and
12 that really prevented me from really honestly
13 testifying to the work that I did and being able
14 to, you know, make my case and really move on with
15 my career.
16 If they did not want me at Mount Sinai
17 Medical Center I had the opportunity to start the
18 residency a year later at Robert Wood Johnson or
19 even U Penn. If these statements were not being
20 made about me, I could easily get a job. But this
21 is the kind of statements that are being made
22 about me.
23 Then in terms of, let's see. Well, in
24 terms of Samuel McCash, he made defamatory
25 statements about me. He said all these lies and

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1 Varughese
2 he wrote the lies and he sent it to hospital
3 leadership, and they believed him. Even though it
4 wasn't brought to me and said, Well, is this true?
5 It was just taken at face value because he was
6 saying it.

7 That was, you know, that was -- that
8 really, you know, led to issues down the line,
9 where, you know -- of course I didn't know any of
10 this was happening because I didn't have, you
11 know, information regarding what was going on.
12 The only thing I know was like actions were being
13 taken against me based on these defamatory
14 statements that in the long run cost me my job
15 really.

16 In terms of Adrienne Jordan, she made
17 a variety of defamatory statements about me. She
18 said that I had flight of ideas, you know, some
19 other things. All relating to some sort of like
20 serious mental illness, which I did not have a
21 history of. I don't have anything wrong with me
22 or my mental health. I've never been diagnosed
23 with anything. I'm perfectly sane and completely
24 capable and completely competent, but I have
25 coworkers who say these things about me and write

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1 Varughese
2 and there's no consequences.
3 And they're doctors themselves. They
4 should know better. When you're a physician, when
5 you're a professional, you have an MD next to your
6 name, you cannot make those statements and make
7 them lightly. They have serious consequences and
8 these people don't seem to understand that.
9 They're so unprofessional and frankly malignant.
10 And I question whether they should
11 even be in this medical field. Because you cannot
12 go around making these statements about people and
13 this is what she did. She made these statements
14 about me. And nobody ever told me that she was
15 saying this. Nobody ever said that they're making
16 their decisions based on these crazy statements
17 made by a crazy person, which is Dr. Jordan.

18 I mean, why would you call somebody
19 crazy if you yourself did not know how to behave?
20 And this is what she was doing ever since December
21 of 2010. She is writing these e-mails, making
22 these statements, alleging things about my mental
23 health and then she goes on to do that over the
24 course of the year. She makes these same
25 statements again. Come June, July, August, she

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1 Varughese
2 says the same things about me again.
3 And what happens to me? I have to go
4 through disciplinary psychiatry. I have to go
5 through Mount Sinai Medical Center's psychiatric
6 evaluation no less. I'm subjected to this kind of
7 treatment by the hospital based on the words of
8 Adrienne Jordan, Samuel McCash.

9 **Q.** Any other statements or --

10 **A.** Right, and then Adrienne Jordan goes
11 on to say that she's terrified of me at some
12 point. Clearly defamatory. I have never been
13 anything but cordial to her. I've had discussions
14 with her, I've talked to her. I never made a
15 threat to her. I never threatened her. I never
16 said anything to her face.

17 All my communications to her are very
18 limited. In fact, it's a few e-mails here and
19 there. I don't even try to approach her. I don't
20 even -- I don't go to her and say like anything.
21 She's the one who approaches me and bothers me at
22 work all the time.

23 And then she says that she's terrified
24 of me in an e-mail on September 14th or -- 13th or
25 14th and Adolfo Firpo responds, Oh, things are

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1 Varughese

2 getting hot now.

3 And I suppose they thought I was
4 trying to come into work that day and they can say
5 I'm doing something or other. And they fabricated
6 all this stuff. It's so defamatory and so
7 unprofessional.

8 Q. Any other defamatory statements or
9 writings?

10 MR. WRONKO: Form objection.

11 A. Right, in terms of, um....

12 Q. Dr. Varughese, it may help you, it may
13 not, but paragraph 142 of the complaint says, it's
14 only one sentence: "Defendant has made false and
15 defamatory statements about plaintiff of a nature
16 that would negatively impact plaintiff's
17 reputation in her chosen profession."

18 Do you see that?

19 A. Yes.

20 Q. And that is what the following
21 paragraph refers to and the testimony you've given
22 so far about Dr. Firpo and Dr. Lento at the House
23 Staff Affairs Committee about McCash and Jordan.

24 So the question is, are there other
25 statements or writings that were made that you

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1 Varughese

2 believe are false and defamatory about you as
3 alleged in paragraph 142 of the complaint?

4 MR. WRONKO: Form objection.

5 A. Right. Well, Arthur Figur wrote this
6 whole thing about, you know, wrote up something
7 about me saying I had all these issues. Then he
8 made a list of it. I mean, it's part of the
9 discovery. And clearly that's defamatory.

10 I had two discussions with him and I
11 met with him, like total four times I met with him
12 and I had face-to-face discussions with him. He
13 knows there's no basis for that. I have discussed
14 a variety of issues that he wanted to know about
15 and he knew what my perspective was, but he wrote
16 this derogatory, defamatory, you know, document
17 stating that as if that's true. And that's really
18 defamatory.

19 When you're a physician you cannot
20 have some hospital administrator make willy-nilly
21 without thought to the consequences write
22 something like that and then subject me to
23 psychiatric evaluation by the hospital, who was
24 also my employer. Like as if that's not a
25 conflict of interest.

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1 Varughese

2 Q. What document are you referring to,
3 that Dr. Figur authored?

4 A. Dr. Figur authored this, I don't know,
5 it's, um, I have to look. I'm not sure what it
6 was called, but....

7 Q. Any other defamatory statements or
8 writings as alleged in paragraph 142 in the
9 complaint?

10 MR. WRONKO: Form objection.

11 A. Right, and Dr. Najfeld, when she wrote
12 that evaluation, which I did not see that
13 evaluation until after I was terminated from the
14 residency program, I only saw that I guess the day
15 before the House Staff Affairs Committee hearing,
16 and it was a total surprise to me because I didn't
17 know there was an evaluation written about me that
18 made all these allegations, but it was written by
19 her and it was false. It was defamatory and it
20 was false. That was not the case.

21 You know, she wasn't even at work on
22 the days stipulated in that document. It was
23 clearly defamatory.

24 I mean, what is it? The academic
25 advisement? That was also defamatory. It states

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1 Varughese

2 that there was patient care related lapse and
3 there was no patient care related lapse related to
4 my work in December. There wasn't a single case
5 where the hospital can say, Well, you made a
6 mistake with this case. If there was, they would
7 have told me. It's a due diligence for them to
8 inform me if that was the case and they have not,
9 because there was not a single thing.

10 In my entire years that I worked at
11 Mount Sinai Medical Center, I did not make any
12 egregious mistakes, not once. Why? Because I'm
13 meticulous. I'm sane. I'm competent. I'm
14 professional. That's why. And the organization
15 has the audacity to say that I'm not any of these
16 things after working there for three years and
17 requiring my services and asking me to cover for
18 residents who weren't there because my services,
19 you know, I'm very professional. I do a good job.

20 Q. Any other false, defamatory statements
21 or writings made about you as alleged in paragraph
22 142 of the complaint?

23 MR. WRONKO: Form objection.

24 A. Right, Ira Bleiweiss with his
25 evaluation in December of 2010, what he wrote was

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defamatory. He said sometimes I'm getting along with people, sometimes I'm not.

That's not the case at all. I get along with people all the time. I don't have any conflicts with anybody.

When I'm being harassed at work, that's not me not getting along with people. That's when somebody who has already harassed me repeatedly harasses me again. And that's considered not getting along with people?

I mean, where is his sense of fairness? Where is his sense of what's right and wrong? I don't think he has one. He thinks, he merely thinks that I'm not getting along. No. Getting along? No, I'm being harassed at work. I'm trying to do my work like everybody else does, which is utilizing the moonlighter and the PA to do small cases.

There is no patient care related issue with doing that. In fact, that's appropriate management of my time and the work that's there. And I am being punished for that and I'm being harassed for that by McCash and then that being substantiated by the hospital as being OK. It's

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OK to do that to a minority. It's OK to treat a minority Indian woman as such.

Q. Any other false defamatory statements about you as alleged in paragraph 142 of the complaint?

MR. WRONKO: Form objection.

A. Bleiweiss also stated that my work wasn't organized all the time when in fact the residency program was completely disorganized. Slides were not processed in a timely manner. There wasn't a day where I got all my work in a timely manner so I can proceed to the next step. It was always all over the place.

I constantly had to follow up with the lab. I had to go searching for things because it was misplaced by the lab. Which Ira Bleiweiss ran. He ran that lab and that's how he ran it. He's disorganized. He's the one who is not doing the appropriate job. And is anybody taking any actions against him for any of this, for the program getting 19 citations from ACGME? Is any action taken against Ira Bleiweiss for running a lab so poorly? None.

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here. There want to claim that I'm not doing my work in an organized manner, but the hospital failed to provide me material in an organized manner. They failed to support me. They failed to allow me to educate myself. They prevented me from being able to attend conferences that are valuable to me as a senior resident, a fourth-year resident after having attended all those conferences over the past three years, and then they make a statement about me being disorganized when that's clearly bunk. I mean, especially when we know that the program is so disorganized and the slides are not coming out in time, the paperwork is not coming out in time.

Q. Any other false and defamatory statements about you as alleged in paragraph 142 of the complaint?

A. I believe I've stated the disciplinary academic advisement was false and defamatory. Going forward, you know, a lot of the e-mails by Samuel McCash have been false and defamatory.

Q. Just to remind you, what I asked you to tell me, you wrote it down, was who made the statement, when they made the statement, what they

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said and who they said it to. That's what I'd like you to tell me.

Other than what you've already told me, are there any other false and defamatory statements that form the basis of the allegation in paragraph 142 of the complaint?

A. Well, this was just pervasive and it was relentless. I experienced this defamation throughout my --

MR. WRONKO: He's asking for any other specific examples. If there are any other specific examples, let's put them on the record and move on.

A. Well, in terms of, what is it? The final warning letter? That was false and defamatory. I complied with all the requirements. You know, they have a due diligence to follow up with me to see if I read everything. If I'm, you know, on time for a variety of issues and matters.

I've done my part. I've complied. I went through all the meetings. I abided by my ethical and legal obligations to the hospital and as a professional. And they state that I did not. That was false and defamatory. When, you know,

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2 the impetus is on them to do that, to do the right
3 thing, and they are trying to say that it's on me.
4 It's not on me.

5 I'm doing my work, I'm trying to do my
6 work the best I can. I'm trying to follow up with
7 everything the best I can and I'm doing so. And
8 they're preventing me from doing that and they're
9 claiming that I did not follow up when clearly
10 that's false. It's a lie.

11 Q. Any other specific examples?

12 A. Well, the disciplinary action letter,
13 that was hugely problematic and that was reported
14 to the state eventually, but not in the time when
15 it was submitted, because I knew the state would
16 investigate something like this and they would
17 find that there is no reason or basis for what's
18 happened, and they did not report it until after I
19 was terminated. Why is that? Why is the hospital
20 trying to cover this stuff up?

21 Q. Any other specific examples of false
22 and defamatory statements about you that form the
23 basis of the allegation in paragraph 142 of the
24 complaint?

25 MR. WRONKO: Form objection.

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1 Varughese
2 A. And the termination letter once again,
3 that was also based on false and defamatory
4 premises and it was written from that perspective.
5 I mean, did I -- I had an opportunity to do,
6 correct the record eventually at the House Staff
7 Affairs Committee hearing, and I tried my best to
8 do so. But that was false and defamatory and I
9 was terminated based on those six reasons.

10 Q. Any other specific examples?

11 MR. WRONKO: Form objection.

12 A. Right, and going forward, what the
13 House Staff Affairs Committee submitted as a
14 reason to uphold my termination, there was a lot
15 of things that were false and defamatory there.

16 Q. Are you referring to the decision of
17 the House Staff Affairs Committee?

18 A. The decision of the House Staff
19 Affairs Committee where Melissa Rocco says that me
20 merely asking her to clarify her statement for a
21 question that she asked was deemed as being
22 argumentative when it was not argumentative.
23 There was no argument there. It was a mere
24 request to clarify a question. That was false. I
25 mean, that's on its face defamation.

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1 Varughese

2 Q. Any other specific examples?

3 MR. WRONKO: Form objection.

4 A. This --

5 MR. McEVOY: You can have that
6 standing objection.

7 MR. WRONKO: Yes, thank you.

8 To this whole line of questioning.

9 A. When they stated that there was
10 absenteeism, which was false and defamatory, when
11 they know there was no absenteeism. I abided by
12 the confines of the sick days. I only took sick
13 days when I was ill. It's not the same thing as
14 being absent. Even though there are other
15 residents who also had the same practices with
16 their sick days, they were not called absentee,
17 but I was by the House Staff Affairs Committee.

18 Q. Any other specific examples of false
19 and defamatory statements made about you that form
20 the basis of the allegation in paragraph 142 of
21 the complaint?

22 A. That's all I can think of right now.

23 MR. WRONKO: Can we take a break?

24 MR. McEVOY: Sure.

25 (A recess was taken from 11:33 a.m. to

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2 11:44 a.m.)

3 BY MR. McEVOY:

4 Q. So Dr. Varughese, paragraph 64 of the
5 complaint, I ask you to take a look at that. Have
6 you had a chance to look at that?

7 A. Yes.

8 Q. And then in the interrogatory
9 responses, which we can look at if you'd like,
10 when you were asked to identify the name of the
11 potential employer referred to in paragraph 64
12 you identified that, I think it is interrogatory
13 number 22, it was --

14 MR. WRONKO: -- Robert Wood Johnson.

15 MR. McEVOY: Correct.

16 Q. So did you apply for a position at
17 Robert Wood Johnson?

18 A. Yes.

19 Q. What position did you apply for?

20 A. There was a PGY-4 opening that they
21 listed on a residency opportunity or residency
22 employment web site, and so I applied to that
23 position.

24 Q. And how did that application process
25 work?

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A. Well, I e-mailed Dr. Fife when I saw the application and it said contact so-and-so. So I e-mailed the contact person who was listed on that employment notice.

Q. Who was the contact person?

A. I don't remember now, but -- so I e-mailed that person and they told me to e-mail or I e-mailed directly. I don't remember exactly how it happened now. But I was asked to send in my references and an application, and that's what I did.

Q. When did you apply to this position at Robert Wood Johnson?

A. When did I apply? I applied in January of 2011.

Q. Before or after you were terminated?

A. This was after I was terminated from employment.

Q. So it would have been January of 2012?

A. Right, January 2012. I stand corrected.

Q. OK. And you say in the complaint that Robert Wood Johnson requested Mount Sinai and Dr. Firpo to forward certain records about your

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those lines.

And she told me, you know, she was flabbergasted and she also talked to Dr. Kalir, Tamara Kalir, she's a doctor at Mount Sinai Medical Center, who also said, you know, I mean, she recommended me to the job as well. And Dr. Fife had also done a GYN fellowship at Mount Sinai Medical Center, which she informed me of as well, and she told me that Dr. Kalir had recommended me and she felt comfortable with Dr. Kalir's recommendation and she wanted to go ahead and get these references.

And then she informed me about Summative Evaluation, that she needed to according to ACGME guidelines to enroll me in the program as a resident for the fourth year. Because they were also ACGME accredited at that time and I think that's how they worked.

So those were the guidelines they followed, and she said that she needed this record because it was an ACGME accredited program. So she needed this record to like enroll me in the program and that was an absolute must.

Q. And so what was your understanding of
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years of work at Mount Sinai.

Who made that request?

A. Dr. Fife made that request. I was in person with her. She picked up the phone and she made a phone call.

Q. Do you know who she called?

A. She asked me for Dr. Firpo's phone number at the hospital and she dialed that number.

Q. What did you hear Dr. Fife say to Dr. Firpo, assuming that's who she spoke to?

A. Right, she asked for the record and she said, you know, is there someone you can refer me to so that I can get the records.

Q. And I take it you don't know what the person on the other end of the phone said.

A. No. It wasn't on the speakerphone, so of course not.

Q. After the call was completed did Dr. Fife tell you what the person she had spoken to had said?

A. I think she said that she wasn't or they were not willing to give me -- give information regarding my residency that I completed and, I mean, she said something along

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what records or documents that Robert Wood Johnson needed from Mount Sinai for them to continue with your application for a position?

A. Essentially ACGME has a template for what this should look like. Since this was for a PGY-4 year, I think they should have said, well, this person had completed three years and one or two months of residency at this institution and was terminated on this date, so on and so forth.

They could have said something like that and made a good faith effort to do that. But Mount Sinai Medical Center did not do that.

Q. No, I understand that. But my question is, what was your understanding or what did Dr. Fife tell you that Robert Wood Johnson needed from Mount Sinai to process?

Did they say for example, I think you may have said this, that they need a copy of a Summative Evaluation?

A. She said that she needed a record of what I had completed and what the training that was completed and what, you know, basically she needed to know what going forward I needed to be assigned to.

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1 So she essentially needed something
2 that said OK, three years of residency. There
3 wasn't any patient care related issues, and so on
4 and so forth. But that's all she needed. That's
5 what my understanding of what she was telling me
6 that she needed and they called it Summative
7 Evaluation.

8 Q. You say in the complaint that Mount
9 Sinai refused to provide the information requested
10 by Robert Wood Johnson. How do you know that they
11 refused?

12 A. Because Dr. Fife told me that they
13 were not going to provide the reference and the
14 Summative Evaluation. Then I, you know, I'm not
15 going to disclose any attorney --

16 Q. Please don't.

17 A. -- you know, communication with my
18 attorney, but, you know, I did speak to my
19 attorney at that time the same day after this
20 interview and I informed him what had happened.

21 MR. WRONKO: Well, now you're
22 disclosing attorney-client information.

23 THE WITNESS: I'm not going to
24 disclose any content.

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1 A. I asked him to intervene at this point
2 because I had an attorney, which the hospital
3 fails to respect. So anyway, I told him that --

4 MR. WRONKO: You can't say what you
5 told.

6 A. I told him to please write a letter.

7 Q. I got that.

8 A. I'm not going to disclose the content
9 of my conversation.

10 Q. Wait, let me stop you, because I share
11 the same concern. I understand that after you
12 found out or after Fife said that Mount Sinai was
13 refusing to provide the information, you spoke to
14 your attorney about this and he or she wrote a
15 letter to the hospital; is that right?

16 A. Correct. I'm not trying to get my
17 attorney as a witness, but, you know.

18 Q. Well, you couldn't do that anyway, but
19 I understand you.

20 A. But I'm saying --

21 MR. WRONKO: Hold on. One at a time.
22 But you want to preserve the privilege. So
23 simply indicating the action that your
24 attorney took as opposed to what you said to

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Varughese

1 him or didn't say to him is the way to
2 testify.

3 Q. Go ahead.

4 A. And he wrote a letter the following
5 day and it was addressed to the Mount Sinai
6 Medical Center's general counsel.

7 And the idea was just to show that we
8 were, you know, I was interested in the position,
9 I had been offered this position contingent on
10 simply providing this reference, and that's all we
11 really needed from them.

12 Of course my attorney was excited
13 about this because they thought that --

14 MR. WRONKO: Again, you can't disclose
15 this.

16 THE WITNESS: It doesn't matter. I'm
17 not divulging anything. But the
18 rationale --

19 A. My feeling was --

20 MR. WRONKO: I have to give an
21 instruction.

22 MR. McEVOY: Ron, do you want to like
23 take her outside and explain?

24 Because I don't want to hear what your

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1 attorney said or didn't say to you.

2 THE WITNESS: Fine, I'm not going to
3 say anything my attorney said.

4 MR. WRONKO: Hold on, let me speak.

5 You should not disclose even what your
6 attorney was thinking or anything about your
7 communications with the attorney, what he
8 said to you or what he expressed to you.
9 Instead, you have to only disclose what
10 occurred outside of your private
11 communications with the lawyer.

12 A. Right, so the letter was sent and it
13 specifically stated what the reason for the letter
14 was and what the expectations were on my part, and
15 there was no response.

16 You know, there was the phone call
17 when I was there at, you know, Robert Wood Johnson
18 and with Fife and people at the hospital at Mount
19 Sinai Medical Center. She wanted to get the DIO
20 involved of Mount Sinai Medical Center and also of
21 Robert Wood Johnson in this issue because she
22 thought that that should facilitate getting the
23 Summative Evaluation. She seemed very, you know,
24 sort of strongly wanting me to get this job and

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1 Varughese
2 getting on with my career, and she was pushing for
3 that.
4 Q. And who's the she you're referring to?
5 A. Dr. Fife. And --
6 Q. What does DIO stand for?
7 A. Designated institutional official.
8 Q. OK, go ahead.
9 A. And, you know, then following that she
10 told me that she's going -- when I left that
11 interview that day what she told me was that she's
12 going to put my name. Because she said I'm going
13 to go through the match algorithm and she's going
14 to put my name in the computer and reserve that
15 fourth-year position for me so nobody else gets
16 that position and I get that position.
17 And that's where I left it that day.
18 And she was like OK, I'll make this work. That's
19 essentially what she said to me. She's going to
20 get this reference and she's going to make this
21 work. That's where I left it when I ended the
22 interview that day with Dr. Fife.
23 Q. What happened next in connection with
24 your application for this position at Robert Wood
25 Johnson?

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2 A. The letter was sent to the hospital
3 requesting the reference or the Summative
4 Evaluation.
5 Q. This is the letter from your lawyer?
6 A. Right. That was sent. We didn't get
7 a response for seven days and/or more than that.
8 And the only response was that the hospital cannot
9 provide the reference.
10 And it was mind boggling because the
11 hospital already told me that they did not want to
12 rehire me. They had terminated my contract. They
13 were not interested in rehiring me. They had made
14 that statement explicitly.
15 At this point, you know, this is three
16 months later. This is a very complicated time,
17 very delicate, sensitive time in terms of
18 residency. This is when I had to apply for the
19 board of pathology examination. I had all these
20 other responsibilities as a professional to follow
21 up on my career essentially and I couldn't do any
22 of that because of these things that were going
23 on, the termination, the hearing.
24 My hope was I could continue with the
25 process once they had made their decision and I

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2 can, you know, get on with my career, but the
3 hospital was essentially like no, we're not going
4 to do that. We're not going to assist you in this
5 transfer. In fact, we're going to go out of our
6 way to obstruct you from transferring despite the
7 fact that we told you we're not going to hire you
8 and made up lies about me.
9 Q. So what happened next with Robert Wood
10 Johnson?
11 A. What happened next was essentially I
12 lost this position. I had nothing to go back and
13 report to them. I could not tell them that --
14 well, I think I did tell them I could not get the
15 Summative Evaluation because the hospital was
16 refusing to provide it.
17 Q. Did you have conversations -- let me
18 just set the time. You said that you left this
19 interview. Dr. Fife said that she was in going to
20 reserve this position for you.
21 Did you have conversations with
22 Dr. Fife after that day?
23 A. I think I did, yes. I think I called
24 her and spoke her. I just said, listen, like, you
25 know, I did all my work. There's some references

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1 Varughese
2 that I have. People can vouch for me and, you
3 know, she should meanwhile this thing is pending
4 to keep considering me for this job and like keep
5 that position for me because I really want this
6 job.
7 Q. Did you speak to anybody else at
8 Robert Wood Johnson about your application for the
9 position other than the person you said you didn't
10 remember their name when you first applied?
11 A. Well, I talked to Dr. Cadoff (pron.
12 Kad-doff) or Cadoff (pron. Kay-doff).
13 Q. Who is Dr. Cadoff?
14 A. He is the chairman of the department
15 there.
16 Q. Of pathology?
17 A. Pathology, right. And so I had spoken
18 to him as well. And then I spoke to the residents
19 there. Like all the residents who were there. I
20 interviewed with them and I interviewed with a few
21 other people. So I spoke to all the different
22 people that I interviewed with. And those were
23 all the people I spoke to at Robert Wood Johnson
24 regarding....
25 Q. So when you met with Dr. Cadoff and

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2 the other residents, was that in connection with
3 interviewing for the position?

4 A. Interviewing for the position and then
5 later on as a follow-up I had -- my contact person
6 was Dr. Fife. So I had e-mailed her regarding the
7 position again. And she forwarded the e-mail to
8 Dr. Cadoff who told me that, who e-mailed me and
9 stated that I didn't, since we did not get this
10 reference, we cannot give you this job now.

11 Q. So is that how you learned that you
12 weren't getting the position from this e-mail from
13 Dr. Cadoff?

14 A. Yes. That's -- I mean, that was like
15 sort of the final, you know, communication that I
16 had with them regarding this job and after that I
17 was, you know, it seemed pretty futile for me to
18 keep insisting on giving me this job and they said
19 that they don't have these references, they don't
20 have the Summative and they cannot give me this
21 job.

22 And then the following day I got the
23 Summative, or eventually I did get the Summative,
24 it was March, but it was after I wrote this e-mail
25 and it was so derogatory and defamatory. And it

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1 Varughese

2 Q. I will even take the representation
3 from Mr. Wronko if it solves the problem. You
4 have a claim, cause of action for interference
5 with business relations, and all it says is the
6 actions of defendant give rise to a violation of
7 interference with business relations, and I take
8 it from the complaint and from your interrogatory
9 responses that what we're talking about is your
10 application for employment at Robert Wood Johnson;
11 is that right?

12 A. Yes, that's one aspect of this issue.
13 The second aspect is the FCVS, medical licensure
14 issues. That's the second aspect of this.

15 Q. What business relationship would you
16 have with FCVS?

17 A. Simply their intermediate -- well,
18 this is like in terms of going forward, I do need
19 these references to be able to get my medical
20 licensure in New Jersey, Pennsylvania, and I
21 cannot use it. So the mere existence of such a
22 defamatory and false Summative Evaluation is
23 interference with prospective business relations
24 going forward into infinity.

25 Q. Any other entity who you believe Mount
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1 Varughese

2 made me realize, like I can't use this to get a
3 job even. Like it was just so blatantly
4 problematic and false and defamatory and written
5 by somebody I never even worked with in a
6 professional capacity as a doctor.

7 Q. And did you talk to Dr. Fife at all
8 about the decision not to offer you the position
9 or the reasons not to offer you the position?

10 A. Oh, her only reason was that she was
11 not getting the Summative. She wanted me to have
12 this job. She said, I want you to have this job.
13 It's a good job for you, and she said, We do this
14 kind of stuff all the time. We have residents who
15 are nontraditional or residents who have been out
16 of the residency program for five years who need
17 to meet a certain requirement, just take their
18 boards again.

19 She routinely offers these positions
20 to more mature and more nontraditional residents.

21 Q. Where is Robert Wood Johnson located?

22 A. That's in New Brunswick, New Jersey.
23 Or is it in Piscataway, New Jersey? I'm not sure.

24 Q. In New Jersey.

25 A. New Jersey, yes.

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1 Varughese

2 Sinai interfered with your business relations or
3 prospective economic advantage? It's phrased two
4 different ways in the complaint. You've told me
5 about Robert Wood Johnson, you've told me about
6 FCVS.

7 A. Right, I had applied to several other
8 jobs over the years, other residencies, one at
9 U Penn, University of Pennsylvania. I'm not sure
10 what reference they provided. Then with Oregon
11 State. There were several other residencies that
12 I had applied to and fellowship positions that I
13 applied to which I would be qualified for by the
14 mere fact that I completed three years of anatomic
15 and clinical pathology residency satisfactorily.

16 And I did not have -- my former
17 employer, Mount Sinai Medical Center, is not
18 willing to act as a reference. This has gone on
19 for all this time. That's preventing me from
20 obtaining appropriate employment. And this is not
21 just for medical jobs. This is for every other
22 job. They refuse to speak to people who seek
23 references.

24 Q. You said you applied for a job at U
25 Penn and at Oregon State. Where else have you

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<p style="text-align: right;">1009</p> <p>1 Varughese</p> <p>2 applied for work?</p> <p>3 A. I applied for a tech job with I</p> <p>4 believe NovoPath, which is merely sales, technical</p> <p>5 analyst specialist type of thing. I applied for</p> <p>6 that job. They wouldn't hire me because of this</p> <p>7 reference and this issue with my work record and</p> <p>8 me being too qualified even for that job.</p> <p>9 Then there is an issue with medical</p> <p>10 writing jobs.</p> <p>11 Q. I need for you to tell me the names of</p> <p>12 the companies/entities/institutions that you</p> <p>13 applied to.</p> <p>14 A. I don't remember what the medical</p> <p>15 writing -- maybe Novartis. I think I applied</p> <p>16 there for some medical writing job. I applied to,</p> <p>17 I must have applied to like ten or fifteen</p> <p>18 different residencies and fellowships.</p> <p>19 Even this year I applied to Kansas</p> <p>20 State pediatric fellowship. Like, I feel like I</p> <p>21 have to do whatever I can to obtain like</p> <p>22 appropriate employment and mitigate my losses, and</p> <p>23 I've done my best to apply far and wide. I've</p> <p>24 applied to Oregon, which is on the other side of</p> <p>25 the country. I've applied to California. I've</p> <p style="text-align: right;">Computer Reporting NYC Inc. (212) 986-1344</p>	<p style="text-align: right;">1011</p> <p>1 Varughese</p> <p>2 doctor, as a medical doctor, which I was trained</p> <p>3 to do, which a degree that I got after years of</p> <p>4 hard work.</p> <p>5 Q. So other than NYU and BIMC, did you</p> <p>6 apply for fellowships anywhere else?</p> <p>7 A. I think I applied to SUNY Stony Brook,</p> <p>8 SUNY Downstate. I've talked to fellows, residents</p> <p>9 and fellows from SUNY Stony Brook who thought, you</p> <p>10 know, it's a possibility you can get the job. I</p> <p>11 talked to their program director and education</p> <p>12 coordinator. I forget his name now.</p> <p>13 But I talked to all these people. I</p> <p>14 know a variety of program directors now. Like</p> <p>15 there's like 150 programs in this country. I've</p> <p>16 been in communication with like at least ten of</p> <p>17 these program directors and fellowship directors</p> <p>18 who are advising me as to what I should do, how I</p> <p>19 should go about this.</p> <p>20 Q. So let me go back for a second. You</p> <p>21 applied for a position at U Penn?</p> <p>22 A. Right.</p> <p>23 Q. And what position did you apply for?</p> <p>24 A. Well, I applied for a residency</p> <p>25 position there. The year that they had stated was</p> <p style="text-align: right;">Computer Reporting NYC Inc. (212) 986-1344</p>
<p style="text-align: right;">1010</p> <p>1 Varughese</p> <p>2 applied all over.</p> <p>3 Q. So again, you've told me about U Penn,</p> <p>4 Oregon State, Kansas State and the tech job and</p> <p>5 the medical writing job. Where else did you apply</p> <p>6 for a residency or a fellowship?</p> <p>7 A. Residency and fellowship I applied, I</p> <p>8 mean, I must have applied to like fifteen, ten,</p> <p>9 fifteen different residencies as part of the ERAS</p> <p>10 application system in 2012. But then going</p> <p>11 forward, I knew that would be a waste of my money</p> <p>12 and time. So I did not do that. I only applied</p> <p>13 to fellowship positions and I applied widely.</p> <p>14 Like I've sent applications to, let's</p> <p>15 see, NYU, Beth Israel Medical Center. Where else?</p> <p>16 A variety of other places, local, variety of local</p> <p>17 hospitals, Nassau County. I applied not even as a</p> <p>18 fellow, but as a pathology assistant, which is</p> <p>19 really a job that I'm overqualified for. But I</p> <p>20 thought, well, you know what? Let me mitigate my</p> <p>21 loss and I'll do that.</p> <p>22 So I applied to pathology assistant</p> <p>23 positions even though that's not a job that I</p> <p>24 should be doing. I should be diagnosing and</p> <p>25 evaluating patient cases as a pathologist, as a</p> <p style="text-align: right;">Computer Reporting NYC Inc. (212) 986-1344</p>	<p style="text-align: right;">1012</p> <p>1 Varughese</p> <p>2 PGY-3, but my hope was obviously given that I had</p> <p>3 already completed three years of residency</p> <p>4 satisfactorily, they would allow me to do PGY-4 in</p> <p>5 return for a few months of whatever coverage they</p> <p>6 are needed.</p> <p>7 Q. Were you interviewed for that</p> <p>8 position?</p> <p>9 A. Yes.</p> <p>10 Q. And I take it you didn't get the</p> <p>11 position.</p> <p>12 A. No, I didn't.</p> <p>13 Q. What was the reason that they gave you</p> <p>14 for not offering you the position?</p> <p>15 A. They -- I don't know if they gave me a</p> <p>16 reason.</p> <p>17 Q. Do you know whether U Penn had any</p> <p>18 communication with Mount Sinai about you?</p> <p>19 A. Well, I imagine they would, because</p> <p>20 that was my former employer. I had like no one</p> <p>21 else to reference to for a residency.</p> <p>22 Q. You applied for a position at Oregon</p> <p>23 State?</p> <p>24 A. Yes.</p> <p>25 Q. What position did you apply for?</p> <p style="text-align: right;">Computer Reporting NYC Inc. (212) 986-1344</p>

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1 Varughese

2 A. It was a fellowship position for
3 neuropathology.

4 Q. Were you interviewed for that
5 position?

6 A. I spoke to someone on the phone who
7 said that they're going to call me after they
8 called the hospital, Mount Sinai Medical Center.

9 Q. Who did you speak to?

10 A. I believe it was a program
11 coordinator.

12 Q. Did the program coordinator or someone
13 else call you back?

14 A. No. They never called me back and I
15 followed up with them and they said, I think they
16 said that they called the hospital and they said
17 something. And Dr. Kalir also said that there had
18 been several calls inquiring for my references.

19 Q. We're talking about Oregon State at
20 the moment.

21 A. Oregon State and some other
22 institutions. I am not sure exactly which ones
23 she was referring to. She said, I'm going to see
24 what's going on.

25 Q. This is Dr. Kalir.

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1014

1 Varughese

2 A. Right.

3 Q. And did Oregon State ever provide you
4 with a reason for why you didn't get the
5 fellowship position?

6 A. No, they did not.

7 Q. And then did you apply for a position
8 at Kansas State?

9 A. Right, I applied for a pediatric
10 pathology fellowship this year, for this year that
11 would have started in July, and, I mean, I
12 technically could not even apply because I did not
13 have a letter from the program director and the
14 Summative Evaluation I have is essentially, cannot
15 be used as a reference because it's blatantly
16 defamatory and it states that I'm unsatisfactory
17 in a variety of issues, which I'm not
18 unsatisfactory at.

19 Why I don't I use that document to try
20 to obtain a job? It's impossible to obtain a job
21 with that document.

22 Q. So when you said you didn't have a
23 letter from the program director, you mean the
24 program director at Mount Sinai?

25 A. Right. Like if I could just have a

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1 Varughese

2 Summative Evaluation that's like accurate and not
3 defamatory would be fine.

4 Q. So I'm just trying to understand. Did
5 you actually apply for a position at Kansas State
6 or did you decide not to apply for it?

7 A. I think I did apply, sent in my
8 information, the application, so on.

9 Q. Were you interviewed for the job?

10 A. Right, I talked to the program
11 director and they said if I can -- if they can
12 verify -- oh, they said that they would need a
13 verification from the residency that you were at
14 for us to be able to hire you and they said for me
15 to even -- I did speak to the program director at
16 length, but he said that they would only like have
17 me come in for an interview if that was given.
18 There was no problem going forward with that.
19 Because otherwise they said it's not useful for me
20 to go in, because I had to fly all the way to
21 Kansas City.

22 Q. Did you apply for a position at NYU?

23 A. Right, I did apply to several
24 different positions. I applied to a GYN
25 fellowship and a neuropathology or something

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1 Varughese

2 fellowship, and I think I also applied for some
3 bone and soft tissue fellowship.

4 Q. Were you interviewed for any of those
5 positions?

6 A. I think I spoke to someone very
7 briefly on the phone and I think they said that
8 they hired somebody else or something.

9 Q. Did you apply for a position at Beth
10 Israel Medical Center?

11 A. Right.

12 Q. Who did you speak to?

13 A. I spoke to the coordinator there and
14 then I interviewed there with the hematology
15 department.

16 Q. What position were you applying for?

17 A. It was like hematology/
18 hematopathology fellowship.

19 Q. What happened to that? I take it you
20 didn't get it. Did they give you a reason why you
21 didn't get it?

22 A. Right. I didn't get that position
23 and, yeah.

24 Q. Were you given a reason as to why you
25 weren't hired for that position?

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1 Varughese

2 A. No, I have not been in communication
3 with them since my interview.

4 Q. And then you said you applied for, I
5 think you said fellowships at Stony Brook?

6 A. Yes.

7 Q. What position did you apply for a
8 fellowship in particular?

9 A. I think it was just a surgical
10 pathology fellowship.

11 Q. Were you interviewed for that job?

12 A. No.

13 Q. Did you receive any communication from
14 Stony Brook as to how your application was handled
15 or rejected?

16 A. No.

17 Q. So you applied to Stony Brook for a --

18 A. I don't know if I applied there
19 actually. I'm not sure if I applied. Oh, you
20 know what? I applied to Staten Island University
21 for sure. Because they were starting a residency
22 program there for the first time, like last year
23 or this year. And they were looking to fill
24 first, second, third and fourth year slots.

25 So I applied for like I guess the

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1 Varughese

2 fourth year slot, if they had any. And I got into
3 this like back and forth communication with their
4 people, which who knows? I didn't even know what
5 was going on there. Because they would e-mail me
6 every other week telling me that they were
7 interested in me as a candidate, then I would not
8 hear from them.

9 Then I talked to, I think the director
10 there is Simpkins (phon) or -- I'm not sure. But
11 he, I think he e-mailed me or something once and
12 he said, Oh, yes, we're interested, and then I
13 didn't hear anything. Like, I don't know.

14 Q. Did you ever hear from Staten Island
15 University regarding your application?

16 A. Right. They told me that they wanted
17 to interview me and then they backed out at the
18 last minute.

19 Q. Again, I take it you didn't get the
20 job. Did they give you a reason as to why you
21 didn't get it?

22 A. No, I have not in been communications
23 with them since then. They were the ones who were
24 e-mailing me telling me they were interested in
25 hiring me and asking me for my references and such

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1 Varughese

2 and then they give me interview date and then they
3 choose not to interview.

4 I mean, I don't know. I have to
5 assume Mount Sinai Medical Center is interfering
6 here.

7 Q. When was the last time you were in
8 communication with somebody at Staten Island?

9 A. I don't remember now.

10 Q. This year?

11 A. This is 2013. No, I think it's 2012.

12 Q. Did you apply for a position at SUNY
13 Downstate?

14 A. I'm not sure actually. I'm not sure.

15 Q. You said that you applied for a
16 pathology assistant position at Nassau County
17 Medical Center?

18 A. Right, pathology assistant.

19 Q. Were you interviewed for that job?

20 A. No, I spoke to the program director,
21 someone on the phone, and they thought I was too
22 qualified for the job.

23 Q. Then there were the tech job and the
24 medical writing position. I think you thought
25 one, if I've got them right, NovoPath and

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1 Varughese

2 Novartis.

3 A. Right.

4 Q. NovoPath was the tech job?

5 A. Yes.

6 Q. What was tech job?

7 A. It was just sales and IT. Just IT
8 sales of their like NovoPath platform to pathology
9 practices.

10 Q. And you applied for the position?

11 A. Yes.

12 Q. Were you interviewed?

13 A. Yes, I spoke to the person who was
14 coordinating the, you know, search.

15 Q. And were you offered the job?

16 A. They were considering it, but then
17 they didn't offer me the job.

18 Q. Were you given a reason as to why you
19 didn't get the job?

20 A. No.

21 Q. How did you find out you weren't
22 getting the job?

23 A. Oh, I just called them.

24 Q. They didn't give you a reason.

25 A. I mean, no. I mean, I told them what

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1 Varughese
2 happened with the Mount Sinai Medical Center.
3 They were like, why are you looking for this job?
I mean, you're a doctor. Why would you want to do
this job instead of being a physician?

6 I said, well, I'm in this situation
7 right now and I'm just trying to mitigate, you
8 know, I'm looking for a job because I need money
9 to pay for my bills and, you know, I was willing
10 to work with them and travel, whatever, and that's
11 what I told them.

12 Q. What medical writing job did you apply
13 for at Novartis? What was that job, the job
14 duties?

15 A. Novartis, this is just like regular
16 medical scientific writing.

17 Q. Were you interviewed for that
18 position?

19 A. No.

20 Q. Did you get any response to your
21 application?

22 A. No, it was just nothing. I just
23 applied.

24 Q. So you submitted an application.

25 A. Right.

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1 Varughese

2 Q. And you never heard from them.

3 A. No.

4 Q. Dr. Varughese, other than, let me just
5 run through them, University of Pennsylvania,
6 Oregon State, Kansas State, NYU, Beth Israel
7 Medical Center, Nassau County, Staten Island
8 University, NovoPath and Novartis, is there
9 anyplace else that you've applied for a position?

10 MR. WRONKO: She also testified to the
11 use of ERAS --

12 MR. McEVOY: Correct.

13 Q. And your use of ERAS.

14 A. Yes. So I applied -- where did I
15 apply? So I applied to Planned Parenthood just as
16 like I guess sort of -- I don't even know what the
17 position is now. But they said that it was no
18 longer available. That's all they said. And I
19 mean, I just got an e-mail response back.

20 And let's see. Right, I applied to
21 this position, hematology or something in Florida.
22 And I think it was University of Florida or
23 University of Miami or something. And what did
24 they say? I mean, that lady was just really mean.
25 I forgot what her name was, but it was a program

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1 Varughese

2 director and she was really mean and rude to me
3 and she said that like, I don't even remember. I
4 mean, I do remember. She was just extremely rude
5 and mean to me.

6 She led me on to believe that she
7 would be interested in me applying for this job.
8 She got all my information and she calls me within
9 like an hour and says that she's not interested in
10 hiring me.

11 And I was like, Well, OK, that's fine.
12 Do you have a reason? And she was very rude to me
13 when I asked her for the reason as to why she was
14 not following up on the reference. And she didn't
15 tell me she was hiring somebody else for the job.
16 She just said we don't want you working here kind
17 of thing. And --

18 Q. Before you go on to the next one, what
19 information did you send to the University of
20 Florida?

21 A. Just my like general application and a
22 bunch of references and....

23 Q. References from physicians?

24 References from --

25 A. Yeah, from physicians, right. Then I

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1 Varughese

2 applied to a, what is it? forensic pathology
3 fellowship in Virginia, University of Virginia, in
4 the DC area or something.

5 Q. Where did you apply?

6 A. The University of Virginia. I think
7 it was Virginia.

8 Q. No, I understand the state. But what
9 was the name of the --

10 A. I can't think of it off the top of my
11 head right now. I had a long conversation with
12 the program director for that position. And she
13 was very nice to me and she just said that, you
14 know, because of what had happened it would be
15 hard for her to like hire me.

16 Q. When you say "what had happened," did
17 she say --

18 A. Basically being pretextually
19 terminated from my residency program. And they
20 had give the Summative Evaluation, I discussed the
21 Summative Evaluation with her.

22 Q. With the program director.

23 A. With the program director, and she
24 didn't think she could hire me.

25 And then the other thing was, I did

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1 Varughese
2 not have my forensics rotation like at Mount Sinai
3 Medical Center, and so I didn't have more
4 experience in the field either. So she was
5 thinking like, you know, it would be hard for her
6 to -- difficult for her to hire me at that point.

7 Q. Anywhere else that you applied for a
8 job since you were terminated at Mount Sinai?

9 A. Right. But I applied for like
10 forensics again in, where is it? LA. That didn't
11 pan out either.

12 Q. I'm sorry? I didn't hear you.

13 A. That didn't pan out.

14 Q. When you say it didn't pan out, what
15 happened?

16 A. They weren't -- I think they had
17 already hired someone or they told me to reapply
18 the following year or something.

19 Q. Anywhere else that you applied for a
20 job?

21 A. That's all I can think of right now.

22 Q. Now, Dr. Varughese, you told me that
23 in connection with the application to Robert Wood
24 Johnson that Dr. Fife had told you that she spoke
25 to somebody at Mount Sinai and they refused to

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1 Varughese
2 provide references or information about you, and
3 I'm not talking about ERAS so much.
4 But with regard to all of the other
5 places that you've identified, and I'll try to
6 avoid going through them one at a time, and I know
7 you thought at various times that Mount Sinai may
8 have or you imagine that they would have talked to
9 these institutions, did anybody at any of these
10 institutions ever tell you they had spoken to
11 somebody at Mount Sinai?

12 A. Well, I was told by Dr. Kalir, the
13 people at Mount Sinai Medical Center, that they
14 had received phone calls for references for me and
15 they were refusing to provide them.

16 Q. So did Dr. Kalir tell you that she had
17 received phone calls?

18 A. Yes, and she had also told me she had
19 received several phone calls from a variety of
20 people that I applied to.

21 Q. Did she tell you who she had received
22 phone calls from?

23 A. She did tell me at that time who it
24 was, but I don't remember right now from all the
25 people she said.

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1 Varughese
2 Q. Other than Dr. Kalir telling you that
3 she had received phone calls from some of the
4 places you applied to, did she tell you that other
5 people at Mount Sinai had received phone calls
6 about you?

7 A. Other people at Mount Sinai Medical
8 Center had received phone calls? Well, right.
9 Dr. Lemp, she's at the VA, Azra Lemp. She told me
10 she got phone calls from several different places.

11 Q. Wait. Who's the she now? Is that
12 Dr. Lemp?

13 A. Dr. Lemp.

14 Q. So Dr. Lemp told you --

15 A. Right.

16 Q. -- that she had gotten phone calls
17 from several places.

18 A. Right.

19 Q. Did Dr. Lemp tell you what she had
20 said in response to those phone calls about you?

21 A. She just said, I put in a good word
22 for you. Hopefully you will get this job. Good
23 luck.

24 Q. What did Dr. Kalir say she had said in
25 response to these phone calls?

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1 Varughese
2 A. Same thing, that she had put in a good
3 word for me.

4 Q. So is there anybody else at Mount
5 Sinai that you know received phone calls from any
6 of these institutions about your application for
7 employment?

8 A. Well, I don't know if I used anybody
9 else as a reference. But I do know that Dr. Figur
10 and the department leadership in the hospital had
11 received phone calls and they had not responded.

12 Q. Other than Robert Wood Johnson how do
13 you know that Dr. Figur and others had
14 received phone calls?

15 A. Not Dr. Figur, Dr. Firpo.

16 Q. Oh, I'm sorry, I thought you said
17 Dr. Figur, that Dr. Firpo and others had received
18 phone calls about you?

19 A. Because I was informed as such and
20 they were being given the runaround for like weeks
21 and weeks without getting the appropriate
22 reference.

23 Q. Other than what happened at Robert
24 Wood Johnson, what other institutions do you know
25 called Dr. Firpo and others and, to use your word,

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Varughese

1 were given the runaround?

2 **A.** There's this one job I applied to and
3 they called and they did not get the needed
4 references.

5 **Q.** What job was that?

6 **A.** Well, you know, there were several
7 jobs that happened with. And that was verified,
8 that was sort of inferred to me over the time
9 period that this was happening. Then, yeah.

10 **Q.** My question is, which of these
11 institutions or employers, potential employers
12 that you identified --

13 **A.** I don't know which one exactly, but
14 this is like happening, you know.

15 **Q.** Who verified to you that some of these
16 institutions were calling Dr. Firpo and others
17 about you?

18 **A.** Well, like I said, Dr. Kalir told me
19 that she received a phone call and then Dr. Lemp
20 told me she had received phone calls and people
21 who I put as references informed me they had
22 gotten calls back regarding the reference.

23 So I assume Dr. Firpo being the
24 program director, newly made program director for

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Varughese

1 this pathology department would also receive the
2 phone calls, because he was on the Summative
3 Evaluations.

4 **Q.** So that's your assumption, that they
5 would have called him --

6 **A.** Well, program directors --

7 **Q.** Let me finish the question. So you
8 know that Dr. Kalir received calls, Dr. Lemp
9 received calls because you gave them as references
10 and they told you they had received calls.

11 **A.** Right.

12 **Q.** I take it Dr. Firpo never told you he
13 received a call about you.

14 **A.** No, he didn't. But people said
15 that -- I was informed that he was called and he
16 was supposed to respond to the requests.

17 **Q.** And who informed you of that?

18 **A.** Well, for instance, Dr. Fife told me
19 that she had called and she tried to speak to him
20 and he would not respond to her.

21 **Q.** And I said to you, other than Robert
22 Wood Johnson. I know that you were there and
23 Dr. Fife called --

24 **A.** Oregon State, health, university,
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Varughese

1 whatever, they made the same phone calls and they
2 were going to speak to Dr. Firpo because he's a
3 program director. He is the one person who these
4 programs call.

5 **Q.** So I'm just trying to understand. Is
6 it your belief that the University of
7 Pennsylvania, Oregon State, for example, called
8 Dr. Firpo because they told you they were going to
9 call Dr. Firpo or the program director or because
10 you believed that that's the person they would
11 have called to get a reference on you?

12 **A.** Because by default he's the program
13 director and they are called. Like it doesn't
14 matter. Like five years from now, like they would
15 still call this program director.

16 **Q.** So that's your understanding of how
17 the process works.

18 **A.** That's how it works, yes. That's
19 absolutely how it works.

20 **Q.** Dr. Varughese, we've had a fair amount
21 of testimony about your interest in taking an FMLA
22 leave at various times, sometime in September and
23 I think sometime earlier, and I don't want to ask
24 you to repeat that testimony.

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Varughese

1 But there is a claim that Mount Sinai,
2 the individual defendants, interfered with your
3 efforts to exercise your rights under the FMLA.

4 And in the complaint in paragraph 56,
5 if you would like to take a look at that. Have
6 you had a chance to read that paragraph?

7 **A.** Yes.

8 **Q.** It says that barring you from the
9 workplace, and we've had testimony about that,
10 that barring you from the workplace and asking you
11 to provide a doctor's note are the allegations
12 that support the claim that they were done to
13 interfere with -- I'll quote it, they were, quote,
14 taken to interfere with Dr. Varughese's attempts
15 to exercise her rights under FMLA, unquote.

16 So other than barring you from the
17 workplace and asking for the doctor's note, is
18 there any anything else that the hospital did to
19 interfere with your attempts to exercise your
20 rights under the FMLA?

21 **A.** Well, they fired me even before I
22 brought in the doctor's note. They fired me. I
23 met with HR and they decided to fire me and they
24 told me to go and get this doctor's note and they

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1 Varughese
2 fired me even before I brought in the doctor's
3 note. They told me to come back with a doctor's
4 note even though they had fired me already. They
5 had made that decision that morning.

6 Q. Anything else? And the anything else,
7 just so that we're clear, is there anything else
8 that you believe that Mount Sinai or the other
9 defendants did to interfere with your efforts to
10 or attempts to exercise your rights under the
11 FMLA?

12 A. Right they changed my duties without
13 me -- without knowing, according to HR, according
14 to Caryn Tiger-Paillex, she does not know why I
15 want to take this leave, if it's for me or
16 somebody else. She doesn't know. But the
17 hospital in the meantime decided to tell me not to
18 be at work.

19 Q. So that's barring you from the
20 workplace. But other than barring you from the
21 workplace, asking you for a doctor's note and
22 terminating you, any other way in which or
23 anything else that you believe the hospital did to
24 interfere with your attempts to exercise your
25 rights under the FMLA?

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1 Varughese
2 A. Right, and then they had Shema Patel
3 detain me in her office and prevent me from, you
4 know, being able to do what I need to do. Whether
5 it's like going to get coffee or even going to a
6 conference, she was preventing me from doing that.
7 She was physically telling me that I had to
8 physically be in this office space and not go
9 anywhere.

10 Q. Anything else?

11 A. I mean, that's clearly counter to like
12 me being able to like exercise my rights.

13 Anything else in terms of the FMLA?

14 Q. Yes.

15 A. Well, with the FMLA they said that,
16 you know, I was trying to take the FMLA to pull
17 one off. Lento said that, in some e-mail, that I
18 was trying to take advantage of them by going on
19 FMLA. It wasn't like they didn't even -- they
20 weren't taking me seriously on one level. They
21 were saying I was trying to take advantage of them
22 by going on FMLA.

23 And I was going to take advantage of a
24 conference, Osler conference, which they were not
25 going to pay for me anyway. They had already

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1 Varughese
2 clearly given me indications they weren't going to
3 pay for my Osler conference. My only hope was
4 that I would get that time to actually attend the
5 conference since I had already paid for it and
6 everything. It would have been a complete
7 financial and monetary waste for me. So I was
8 just simply hoping I could go.

9 And they were saying that, oh, I'm
10 going to take this leave. Then they are going to
11 pay for my conference and it's going to be me
12 taking advantage of them. Because I'm on leave.

13 I mean, this is the kind of, you know,
14 defamatory harassing abusive stuff that I've had
15 to deal with there every single day.

16 Q. I understand that and right now we're
17 talking about the FMLA, not about defamation.

18 Can you tell me if there is any other
19 way in which you think the hospital interfered
20 with your efforts or attempts to exercise your
21 rights under the FMLA?

22 A. Right, and then they made me do, you
23 know, they started taking actions against me again
24 with PWC. They were referring me to PWC because I
25 requested FMLA essentially. Because I don't know

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1 Varughese
2 what the real reason was because I wasn't doing
3 anything wrong. I was there at work. I didn't do
4 anything wrong.

5 I mean, Robert Guarino cancelled his
6 presentation on Wednesday. Was there any action
7 taken against Robert Guarino, the white male
8 resident?

9 Q. Dr. Varughese, just answer this
10 question. What does Dr. Guarino cancelling his
11 presentation in September have to do with --

12 A. On September 13, 2011.

13 Q. I understand that. What does
14 Dr. Guarino's cancelling his presentation have to
15 do with your efforts or attempts to exercise your
16 rights under the FMLA?

17 A. On September 14, 2011, Robert Guarino
18 cancelled his presentation that he was scheduled
19 to present on September 15, 2011. He was not
20 referred to Physician Wellness Committee for such
21 a late cancellation. Nothing. No actions were
22 taken against them. No consequences for his
23 behavior.

24 Once again, he's a Caucasian doctor
25 being treated completely differently by, within

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1 Varughese

2 the hierarchy and by the hospital and by the
3 administration. And here I am, I simply do not
4 present and then I'm being constantly harassed at
work nonstop and my character being defamed, and I
5 can't even take a leave of absence. I can't even
6 request a leave of absence and follow up because
7 the hospital is going to interfere with it and
8 then tell me that I'm not fit for duty and, you
9 know.

11 They didn't even say that actually.
12 They didn't say I was unfit for duty. They just
13 made me not come in to work. They gave me no
14 reason at all. They just said don't come into
15 work. That's interfering with my ability to take
16 FMLA leave.

17 I mean, that's enough discouragement
18 for anybody asking for a leave of absence to know
19 that their employer is going to go out of his way
20 to defame you, make up all this stuff, refer you
21 to disciplinary psychiatry or Physician Wellness
22 Committee without you requesting any assistance.
23 It's completely defamatory and completely, you
24 know, obstructive of the process of taking FMLA
25 leave.

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1 Varughese

2 Q. Anything else?

3 A. Right. I mean, they changed my duties
4 and I felt like my duties would be changed if I
5 did take a leave. They were going to like, you
6 know, defame me and, you know, change my, um,
7 change basically my work and place different
8 requirements on me than others. So that was a
9 threat.

10 I mean, they told me I cannot come
11 into work when I asked for FMLA and I felt they
12 were threatening me and I could not really process
13 the FMLA leave request. I could not follow up
14 with my physicians. Because I was fired even
15 before I could even do any of these things for
16 simply making a request.

17 Q. Anything else?

18 A. That's all I can think of now.

19 Q. Let me show you a document.

20 MR. McEVOY: Mark this as Exhibit 61.
21 (Defendants' Exhibit 61, note from
22 Dr. Jose Barbazan-Silva, dated 9/20/11,
23 Bates No. P883, marked for identification,
24 this date.)

25 Q. Do you recognize that?

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1 Varughese

2 A. Yes.

3 Q. Can you tell me what it is?

4 A. This is the doctor's note that I
5 provided.

6 Q. And this is the doctor's note dated
7 9/20/11.

8 A. Right.

9 Q. Signed by Jose Barbizon-Silva?

10 A. Yes.

11 Q. And who did you give the doctor's note
12 to?

13 A. I gave it to Roberto who is like Caryn
14 Tiger's personal assistant, administrative
15 assistant or personal assistant.

16 Q. Did you give it to Roberto on
17 September 20th?

18 A. Right. Yeah, and -- yeah.

19 Q. What time of day did you give it to
20 him?

21 A. This was like around noon.

22 I also e-mailed Caryn Tiger telling
23 her that I had the note. I e-mailed Graduate
24 Medical Education also telling them that I had the
25 note.

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1 Varughese

2 But of course they had already made
3 the decision to fire me well before this note ever
4 arrived, so....

5 MR. McEVOY: Just take a two-minute
6 break.

7 (A recess was taken at 12:41 p.m.)

8 MR. McEVOY: This would be a good time
9 to take our lunch break.)

10 (A luncheon recess was taken at
11 12:48 p.m.)

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1 Varughese
 2 AFTERNOON SESSION
 3 (Time noted: 2:04 p.m.)
 4 LEENA VARUGHESE, resumed and
 5 testified further as follows:
 6 EXAMINATION BY (Cont'd.)
 7 MR. McEVROY:
 8 Q. Dr. Varughese, after you were
 9 terminated at Mount Sinai when did you first start
 10 looking for a new job?
 11 A. Immediately afterwards.
 12 Q. And immediately as in when? Next day?
 13 A. Well, after November.
 14 Q. I'm sorry?
 15 A. After the hearing.
 16 Q. After the hearing or after you got the
 17 decision from the hearing?
 18 A. No, actually after the hearing, maybe
 19 even before the hearing, because the ERAS process
 20 was in place at that time. So I had to write to
 21 people to obtain all my documents, and so on.
 22 Q. So the record is complete, could you
 23 explain what the ERAS process is?
 24 A. It's just Electronic Residency --
 25 Algorithm System? I don't know. But anyway, it's
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1 Varughese
 2 basically where you interview with a variety of
 3 programs and you basically put the programs into
 4 order preference and if the program ranks you,
 5 depending on the highest preferences, the program
 6 ranks the different people who they interviewed,
 7 and if it happens to like be high enough, then you
 8 go to that program.
 9 Q. Did you get any interviews out of the
 10 ERAS system?
 11 A. Did I? I spoke to several programs,
 12 yeah. But I don't know. I don't think I did a
 13 formal interview, no. Because it's usually for
 14 first-year residents. They don't do the ERAS
 15 traditionally for fourth years, but I put an
 16 explanatory note regarding my situation.
 17 Q. Was there any period of time after you
 18 were terminated from the program at Mount Sinai
 19 that you weren't able to work for a medical reason
 20 or any other reason?
 21 A. No.
 22 Q. And are there any areas of work or any
 23 jobs that you're qualified for or that you were
 24 overqualified for that you didn't look for work
 25 in?
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1 Varughese
 2 MR. WRONKO: Form objection. You can
 3 answer.
 4 A. Well -- what is the question?
 5 Q. The question is, let me put the
 6 question a different way. What types of jobs did
 7 you apply for or look for?
 8 A. Jobs that required a medical degree
 9 and jobs that did not require a medical degree as
 10 well.
 11 Q. So what jobs that required a medical
 12 degree did you look for? You told me about
 13 residency programs and fellowships.
 14 A. Right. I had applied to a research
 15 position at Eli Lilly. Actually, they contacted
 16 me about the Eli Lilly position, and, you know,
 17 obviously I had explained that, I had been fired
 18 from the residency program, and, you know, and
 19 then they were not interested.
 20 Q. Any other job that you applied for
 21 that required a medical degree? Or looked into,
 22 you didn't have to actually apply, but what you
 23 were looking for.
 24 A. Right, I mean, I wanted to do the
 25 research position because I thought I would be
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1 Varughese
 2 very qualified for it because I have research
 3 experience and I know how to read and analyze the
 4 scientific papers. It's not that complicated for
 5 me. So I applied to that.
 6 And they actually wanted to know the
 7 details of why I got fired and I said it was
 8 discriminatory and I'm in the process of, you
 9 know, filing the complaint and going through the
 10 process of, you know, I guess adjudicating the
 11 matter, but I was looking for employment in the
 12 meantime and even considering it possibly
 13 eventually for like a couple of years to get some
 14 experience. And they were not interested in
 15 hiring me because of my employment history with
 16 this whole situation.
 17 Then what else?
 18 Q. Any other positions that you looked
 19 for that required a medical degree in addition to
 20 the position at Eli Lilly, fellowships and the
 21 residency program?
 22 A. No, I think that's it.
 23 Q. With regard to jobs that didn't
 24 require a medical degree, and this morning you
 25 told me about the writing job, the tech job. Any
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1 Varughese

2 others?

3 A. Yes, the pathology assistant job, the,
4 you know, I guess I tried to apply to internships
5 in a variety of different fields such as like
6 journalism and such. But nothing panned out. It
7 didn't work out.

8 Q. How did you go about looking for work?

9 A. Just applied on line.

10 Q. How did you go about identifying that
11 there were available positions?

12 A. I just did a search or, you know, I
13 heard about it through e-mails that were sent to
14 me from different places.

15 Q. When you said you did it through a
16 search, do you mean an on-line Web search?

17 A. Right. Like most of these companies
18 have a job search thing and you can put in your
19 e-mail address and your specific qualifications
20 and they will send you something if they think
21 that it's a suitable job. I mean, I get e-mails
22 from work and some other companies.

23 Q. Did you look at newspapers or
24 professional magazines for jobs?

25 A. Not really.

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1 Varughese

2 Q. And were the applications that you
3 made on line or were they in hard copy, if I can
4 use that expression?

5 A. Some of the jobs were just on the
6 website itself for the organization. For
7 instance, like Merck has its own application
8 process. You can just apply with them directly.
9 So I've done that. Some other hospitals, like
10 Valley Hospital in New Jersey, I think they were
11 looking for a pathology assistant job and I just
12 applied on their website and I submitted.

13 Q. And when you did an on-line
14 application did you print out a copy of the
15 application?

16 A. Not always.

17 Q. What kind of responses did you get?
18 In what form did you get responses? Did people
19 send you letters, send you e-mails, respond on
20 line? How did they do it?

21 A. I mean, I didn't really hear back much
22 from a lot of the jobs.

23 Q. And have you received any job offers
24 since you were terminated at Mount Sinai?

25 A. Well, other than Robert Wood Johnson

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1 Varughese

2 and potentially like the Kansas State, Kansas City
3 or, I mean, I just got like, you know, people
4 interested in hiring me, but not being able to
5 hire me.

6 Q. So you never actually received a job
7 offer.

8 MR. WRONKO: Form objection.

9 Q. By that I mean an actual offer. I
10 understand what you said about Robert Wood Johnson
11 and the others, but did anybody ever actually
12 offer you a job? Here's the offer. We would like
13 you to start at this salary on this date at this
14 position?

15 A. Right, that's what I mean. Like with
16 Robert Wood Johnson they did offer to do that in
17 July of 2011. So that was an offer.

18 Q. Any other jobs that you were offered?

19 A. No, I don't think I was offered.

20 Q. Since you say you were offered a job
21 at Robert Wood Johnson why didn't you take the
22 offer?

23 A. It wasn't that I didn't take the
24 offer. We discussed this just a few minutes ago.

25 Q. So it's what you said this morning

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1 Varughese

2 about what happened at Robert Wood Johnson.

3 A. Right.

4 Q. OK. Did you can use any search firms
5 or headhunters in your job search?

6 A. No. Oh, I did. I did talk to some
7 headhunters and -- yeah. I mean, I couldn't do it
8 because I don't have my board certification.

9 Q. So did you actually work with any
10 headhunters or search firms to get any job?

11 A. Right, I spoke to several headhunters
12 over the years. I refer them to people who are
13 looking for a job in pathology. But I couldn't
14 utilize them because there is no possibility for
15 me to do the board exam as of right now even
16 though I met all my requirements and I have over
17 60 autopsies, and for some reason I'm not allowed
18 to take my board exams with the American Board of
19 Pathology.

20 Q. I will show you a group of documents.

21 MR. McEVOY: Mark this as Exhibit 62.

22 (Defendants' Exhibit 62, document
23 headed "Leena Varughese, M.D., Interview
24 Schedule, Wednesday, March 06, 2013," Bates
25 Nos. P827 to P852, marked for

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1 Varughese
 2 identification, this date.)
 3 Q. Take a look at that, Dr. Varughese,
 4 and let me know when you've had a chance to do
 5 that.
 6 A. OK.
 7 Q. Dr. Varughese, these are the
 8 documents, and they are Bates stamped numbered
 9 P-827 to P-852 consecutively, these are the
 10 documents that were produced by you, by
 11 Mr. Wronko, in response to a request for documents
 12 reflecting your efforts to find a job after you
 13 were terminated at Mount Sinai.
 14 Are these all of the documents that
 15 you have in your possession about your job search?
 16 A. As I described you, obviously I
 17 applied to more jobs than the number that, you
 18 know, is documented through these.
 19 Q. Do you have any documents regarding
 20 those jobs that you applied to other than what's
 21 here?
 22 A. I mean, I probably just have e-mails
 23 and just....
 24 RQ MR. McEVOY: So if I need to, I will
 25 make the follow-up request to produce
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1 Varughese
 2 whatever other documents, whether e-mail
 3 form or whatever form they're in, about
 4 Dr. Varughese's job search.
 5 Q. Now, since your termination in
 6 September of 2011 what, if any, sources of income
 7 have you had?
 8 A. I've just had unemployment.
 9 Q. And during what period of time did you
 10 collect unemployment?
 11 A. I don't know.
 12 Q. What was your weekly benefit rate?
 13 A. Like \$400.
 14 Q. So other than unemployment you haven't
 15 had income from any source, not from employment --
 16 A. Yeah.
 17 MR. WRONKO: Let him finish the
 18 question.
 19 Q. From any other source.
 20 A. Like from my friends, family.
 21 Q. Any other source? Any income from
 22 investments?
 23 A. Investments?
 24 MR. WRONKO: Form objection. I don't
 25 know what the relevance would be of that. I
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1 Varughese
 2 mean, that goes into an area that's
 3 confidential I believe because income from
 4 investments would not be mitigation income.
 5 MR. McEVOY: It may or may not
 6 depending on where it comes from.
 7 Q. So without going into the details,
 8 just answer my general question, have you had
 9 income from investments? And we'll worry about it
 10 later if we need to.
 11 A. I don't know.
 12 Q. Have you applied for Workers'
 13 Compensation benefits?
 14 A. No.
 15 Q. Any form of disability benefits?
 16 A. No.
 17 Q. Social Security benefits?
 18 A. No.
 19 Q. Let me show you a document.
 20 MR. McEVOY: Mark this as Exhibit 63.
 21 (Defendants' Exhibit 63, Form W-2,
 22 Wage and Tax Statement, 2011, for Leena
 23 Varughese, marked for identification, this
 24 date.)
 25 Q. Do you recognize the document I've
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1 Varughese
 2 just shown you?
 3 A. Yes.
 4 Q. Tell me what it is.
 5 A. A wage and tax statement for 2011.
 6 Q. It's the W-2 form you received from
 7 Mount Sinai?
 8 A. No.
 9 MR. WRONKO: Form objection.
 10 A. I don't think so.
 11 Q. Who did you receive this document
 12 from?
 13 A. I don't know.
 14 Q. In any event, does this document show
 15 the amount of wages or other compensation that you
 16 earned in 2011? The number is \$44,702.41.
 17 A. I don't know. I don't think it does.
 18 Q. Sorry?
 19 A. It may show, I mean, I don't know if I
 20 received unemployment that year. I think that's
 21 going to be added to that.
 22 Q. OK.
 23 Let me show you another document.
 24 (Defendants' Exhibit 64, 1040 U.S.
 25 Individual Tax Return for 2102 for Leena
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1 Varughese

2 Varughese, marked for identification, this
3 date.)

4 MR. WRONKO: I just want to note for
5 the record that this document does not bear
6 a confidential stamp.

7 MR. McEVOY: Would you like to
8 designate it as such?

9 MR. WRONKO: I would like to designate
10 it confidential.

11 MR. McEVOY: Fine. I would have
12 treated it that way anyway.

13 MR. WRONKO: Thank you.

14 Q. Do you recognize this document,

15 Dr. Varughese?

16 A. Yes.

17 Q. Can you tell me what it is?

18 A. It's a 1040 tax form.

19 Q. Is this your 1040 tax form for the tax
20 year 2012?

21 A. Yes.

22 Q. And if you look on the first page it
23 shows on line 19 unemployment compensation of
24 \$17,415?

25 A. Yes.

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1 Varughese

2 Q. Does that refresh your recollection as
3 to how much unemployment insurance benefits you
4 received?

5 A. Yes, that's probably it.

6 Q. And you earned no wages or salaries in
7 2012.

8 A. No.

9 Q. Is that correct?

10 MR. McEVOY: Off the record.

11 (Discussion off the record.)

12 MR. McEVOY: May I speak to you
13 outside for a minute?

14 (A recess was taken.)

15 BY MR. McEVOY:

16 Q. Just so that the record is complete,
17 I'm not going to ask you, Dr. Varughese, about
18 damages. But since Mr. Wronko has provided me
19 with your economic expert's report calculating
20 your actual damages and since that is what will be
21 relied on at the time of trial, I'm not going to
22 ask you questions about your actual damages
23 because that would seem more appropriate for me to
24 ask your expert. So I'm not going to ask you
25 about your actual damages, but we'll simply

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1 Varughese

2 address that issue to the expert.

3 In your complaint, Dr. Varughese, you
4 make a demand for emotional distress damages,
5 which are generally understood to be damages for
6 humiliation, mental anguish, things of that sort.

7 And I think as you also know recently
8 you withdrew your claim for intentional emotional
9 distress and Mr. Wronko represented to the court
10 and the court approved that at trial you would be
11 limited to what they call garden variety emotional
12 distress damages which come from really the
13 plaintiff in this case, you, your own testimony.

14 So what I would like to ask you now

15 is, tell me how it is you believe that you

16 suffered emotional distress damages or emotional
17 distress as the result of what you allege was done
18 to you at Mount Sinai in terms of retaliation,
19 discrimination and the other claims that you
20 assert?

21 A. Well, it was very pervasive

22 discrimination and retaliation where I experienced
23 a lot of anxiety, fear to be at my workplace even.

24 I experienced a lot of, um, you know,

25 depression-type symptoms, of feeling helpless, you

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1 Varughese

2 know, being, you know, being emotionally crying,
3 you know, when I'm going home from work every day
4 because of the treatment that I was receiving at
5 Mount Sinai Medical Center.

6 I was being constantly harassed by the
7 department, by the leadership, being subjected to
8 a standard that was not expected for anybody else
9 but me since I made a complaint about being
10 harassed at work.

11 Q. Any other way in which you experienced
12 mental anguish?

13 A. Right, I experienced sleeplessness,
14 you know, I had an increased sense of anxiety and
15 fear. I have experienced, you know, not being
16 able to do my work like I normally would because
17 I'm being distracted from my job and my career by
18 an organization that's intent on, you know,
19 forcing me to quit almost with all the harassment
20 every day.

21 So I felt more, you know, as this went
22 on I felt more distracted. You know, I tried to
23 stay focused on my job and I did stay focused on
24 my job, but it took an extra effort for me because
25 of everything that was happening.

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1 Varughese

2 Q. And just so that I'm sure you
3 understand my question, I'm not limiting how you
4 experienced mental anguish or mental distress
5 while you were still employed at Mount Sinai.

6 I'm also asking you whether you've
7 experienced mental anguish or mental distress or
8 emotional distress since you were terminated at
9 Mount Sinai. So after you left the program.

10 A. Yes, I continued to experience
11 anxiety, a lot, you know, I mean, I'm a highly
12 qualified, highly trained individual who like --
13 essentially I worked really hard and I was sort of
14 set for success. I mean, I've given it a lot of
15 efforts and energy. I consider my career to be
16 essentially my child. I forgo my opportunity to
17 get married or whatever when I was 20 something in
18 order to pursue a career and advance myself both
19 economically and professionally. And that's being
20 derailed actually by an organization. I've felt
21 that that's the case and I've been very
22 distraught.

23 I, you know, I've had to get help for
24 it. I've had to get therapy. I had to get into
25 meditation and, you know, alternative therapies

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1 Varughese

2 and such for me to feel like I can cope with
3 what's happening.

4 I have lost sleep, you know, obviously
5 lack of sleep, being unable to sleep. You know,
6 being so despondent that I can't -- I just feel
7 tremendously sad about what's happening and, you
8 know, sad about the extent of animosity directed
9 at me that in my opinion is really without basis
10 as it's just like to be hated for no reason at all
11 by an organization.

12 It doesn't, you know, to me it doesn't
13 make any sense and something I've had to live
14 with. I've had to live with the idea that I'm
15 being harassed for no reason by an organization
16 that's intent on destroying my career.

17 And I have to constantly tell my
18 family and friends what I'm going through to allow
19 them to understand what's happening with me. I
20 don't want them to think like, you know, I'm upset
21 or sad for no reason. So I have had to explain my
22 situation to all these people. You know, my
23 friends think that.

24 You know, it's been hard for me. Like
25 it's hard to go from being, you know, being or

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1 Varughese

2 having some of the opportunities that I really
3 worked at to not really having that for no reason
4 at all.

5 And, I mean, I have not done anything
6 wrong. I've never, you know, harassed anybody.
7 It's everyday issues in residency. Everybody else
8 does it. But I'm the one who gets fired for
9 something that everybody does.

10 I mean, I'm treated very differently.
11 I feel like there is rules for everyone and I'm
12 segregated to the colored women's line and not
13 allowed to interact with everybody else. Like I'm
14 being cornered off and segregated to, you know,
15 nobody and while everybody else is having this
16 buffet of whatever, and I don't have the same
17 rights because this organization can say that I
18 don't have the same rights as everybody.

19 Q. So any other way in which you
20 experienced emotional distress or mental anguish?
21 Other than what you already told me.

22 A. Right, I mean, I felt very sad about
23 all this and I experienced a very, you know, a lot
24 of anxieties, a lot of depression. I've had to
25 obtain therapy. I've had to seek out help because

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1 Varughese

2 I really felt that like if I didn't get help I
3 didn't know if I would get through the situation.

4 Q. Anything else?

5 A. Well, I think, you know, I mean, over
6 the years I've lost, you know, as this was going
7 on and even now like in terms of me being able to
8 enjoy my life the same way as before, I can't.
9 Like knowing that my opportunities are infinitely
10 less than Adrienne Jordan or Samuel McCash or even
11 Patrick Lento or any of the defendants, it's, you
12 know, to me it's really wrong and to me I don't
13 deserve that and it prevents me from being able to
14 enjoy my life the way I should.

15 It prevents me from being able to
16 really plan my life out. You know, I'm 33 years
17 old and I was in residency, like I thought I was
18 going to graduate, you know, settle down, have a
19 child. I thought I would be a mom by now. Like
20 I'm 33 years old. I don't have infinite, you
21 know, for fertility and such, and I can't start
22 with my life until it seems like this is really
23 settled for me, because I have no financial
24 stability. God forbid something happens. I
25 cannot take care of myself. Right now I cannot

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1 Varughese
2 take care of myself. I really have no income. My
3 unemployment was really the only income that I had
that was really my own. I don't have that. Now I
have to rely on others.

6 MR. McEVROY: Excuse me one second.
7 (Telephonic interruption.)

8 Q. Go ahead.

9 A. I have to rely on others for income.
10 I have to rely on others for just about
11 everything.

12 Now, even though like technically I'm
13 highly qualified, I can get a job, I'm good at a
14 lot of different things. I can pick up a lot of
15 different things.

16 Essentially a lot of doctors are the
17 top one percent of the population, and to me it's
18 sad that despite all my qualifications, my
19 capabilities, how intelligent I am, I can't really
20 utilize it the way that I want to and it prevents
21 me from enjoying my life.

22 This whole situation also prevents me
23 from being able to really like, you know, settle
24 down, sort of be respected in the community as a
25 doctor. Like right now it's like people don't see

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1 Varughese
2 me as, you know, as having a good reputation or
3 take me seriously simply because of the actions of
4 this hospital.

5 Did I do anything wrong? Did I ever
6 harm a patient in this process? No. I stood up
7 for patients over the years. I vouched for cases.
8 I fought for my cases. I fought for my patients.
9 I fought for my diagnoses.

10 I have done the right things over the
11 years and, I mean, this hospital doesn't value it.
12 That's not my problem. But, for me I know as a
13 doctor what's important and I've always tried to
14 do the right thing by everybody, whether it's the
15 hospital or my patients. And I know how to do
16 that and it saddens me that I cannot use my skills
17 to better society, to really advance myself, to
18 advance my future and, you know, have a child that
19 I can really support on my own.

20 I mean, it's really sad to me and I
21 really think if this hadn't happened I would have
22 done all of those things.

Q. Anything else?

24 A. Yeah, like, I mean, like all the
25 things that were said over the years with, I don't

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1 Varughese
2 know, the hearings and the decisions, and, you
3 know, I find that, like I found those things to be
4 extremely, you know, like problematic and
5 saddening for me because, I mean, a lot of it
6 wasn't true, but because Mount Sinai Medical
7 Center has its reputation, they can say that and
8 get away with it.

9 And to me that was, you know, it just
10 made me feel sort of very damaged by this process
11 because like I just felt like I was the sort of
12 person who wouldn't do something like that. I
13 feel like just because there are people like that
14 out there, like I'm being damaged by this, you
15 know, like dragging me into all of this
16 mudslinging that's directed at me. Like I have
17 never done anything to harm the hospital or its
18 operations. I never did that. But they said all
19 these things and it made me really sad and just
20 anxious and really depressed.

21 Q. Anything else?

22 A. No, that's it.

23 Q. Dr. Varughese, you said that at some
24 point you sought out therapy for the problems
25 you've just described. When did you first see

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1 Varughese
2 somebody, a therapist or psychiatrist?

3 A. Well, I mean, over the years in terms
4 of the residency I was, you know, I spoke to
5 Dr. Berkman, Kathy Berkman. She used to be the
6 resident mental health liaison, because Allen
7 Schiller said there was something wrong with me in
8 my DNA and I was forced to go see her even though
9 like I was doing all my work.

10 It was like October 2009. There was
11 no issues. I testified to that before. I was on
12 autopsy and surgical pathology. There wasn't a
13 single problem there. But he wanted me to go see
14 somebody, and he didn't even say who or what, and
15 I of course I was concerned about it. I think I
16 went to speak to Dr. Stimmel and I think I spoke
17 to Dr. Berkman and I complained about it.

18 Q. You may have misunderstood my
19 question. I'm not asking you when you went to see
20 a therapist or psychiatrist because someone else
21 told you to go. I'm asking you when you went to
22 seek therapy because you thought --

23 A. Oh, because I wanted to.

24 Q. Because you wanted to.

25 A. I felt like I had already done that

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1 Varughese
 2 after the McCash incident. Like I felt, you know,
 3 I felt so distressed by the situation and the
 4 effects it was having on me. I felt so sick.
 5 Like there were times when I couldn't
 6 even get out of bed, like I was so like depressed
 7 at that time. Like, I mean, it wasn't for a long
 8 period, but it was for, you know, like even the
 9 weekend, I just felt so tired all the time, just
 10 really depressed. So I talked to someone and they
 11 referred me to like a psychiatrist, a medical
 12 doctor. So I went and spoke to her.
 13 Q. When was that?
 14 A. That was in January of 2011.
 15 Q. And who was the psychiatrist that you
 16 were referred to?
 17 A. Well, I'm not going to answer that.
 18 I'm not going to go into this whole, like my
 19 psychiatrist or whatever. Because they don't want
 20 to be involved in this. They already told me they
 21 don't want to be involved in this. They are
 22 professional doctors. I am not going to involve
 23 like, you know --
 24 MR. WRONKO: But you have to identify
 25 them.

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1 Varughese
 2 THE WITNESS: Yes. I've already
 3 identified them to you.
 4 MR. WRONKO: You can say the name on
 5 the record. You have to.
 6 Can you give me a moment?
 7 MR. McEVROY: Sure.
 8 (Witness and her attorney left the
 9 room and returned.)
 10 MR. WRONKO: We can pick up. You can
 11 answer that question.
 12 A. It was Dr. Dent.
 13 Q. Dent?
 14 A. Yes.
 15 Q. What was Dr. Dent's first name?
 16 A. Katherine.
 17 Q. Where was Dr. Dent's office?
 18 A. She works in New York City.
 19 Q. In Manhattan?
 20 A. Yes.
 21 Q. And how long did you see Dr. Dent?
 22 A. For a year.
 23 Q. How frequently did you see her?
 24 A. Like once a month.
 25 Q. And that was from roughly January 2012

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1 Varughese
 2 to January 2013?
 3 A. Right.
 4 Q. And other than Dr. Dent have you seen
 5 again, at your own initiation, not because someo
 6 else told you that they thought you needed to,
 7 have you seen any other psychologist,
 8 psychiatrist, mental health professional other
 9 than Dr. Dent?
 10 A. Right, then I -- after -- well, I
 11 mean, I saw Dr. Knobler like I already mentioned.
 12 Q. And is Dr. Knobler a psychiatrist?
 13 A. Yes, she's also M.D. psychiatrist.
 14 Q. What is her first name?
 15 A. Joanne.
 16 Q. Where is Dr. Knobler's office?
 17 A. She is in Brooklyn.
 18 Q. When did you first see Dr. Knobler?
 19 A. In January 2013. I mean, 2012.
 20 Q. So at the same time you were seeing
 21 Dr. Dent?
 22 A. No, after -- I stopped seeing Dr. Dent
 23 in January or so. Then I started seeing
 24 Dr. Knobler.
 25 Q. January of this year?

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1 Varughese
 2 A. Last year, 2012. January 2011 to
 3 2012, then like January 2013 to like June or July
 4 2013.
 5 Q. Wait a minute. Let's get the dates
 6 right. Dr. Dent was January 2011 to January 2012.
 7 A. Right.
 8 Q. And Dr. Knobler was January 2012?
 9 A. Yes.
 10 Q. Till?
 11 A. Like July or June. I mean, I don't
 12 know.
 13 Q. This year or last year?
 14 A. Last year.
 15 Q. How frequently did you see
 16 Dr. Knobler?
 17 A. Just saw her like once a month.
 18 Q. Since June or July of 2012 have you
 19 seen any psychiatrist or psychologist or mental
 20 health professional?
 21 A. After that I didn't really see anyone
 22 till like, I don't know. Like, I mean, I started
 23 seeing a social worker specializing in, you know,
 24 mental health.
 25 Q. When did you start seeing her?

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1 Varughese

2 A. I started seeing her in, what is it?
3 I don't know, maybe January or December of 2012,
4 2013. January 2013 or December 2012, I'm not
sure.

6 Q. What's the name the social worker?

7 A. Khetarpal.

8 Q. First name?

9 A. First name is Rupa. R-u-p-a
10 K-h-e-t-a-r-p-a-l.

11 Q. And are you still seeing?

12 A. Yes. We are ongoing.

13 Q. How often do you see?

14 A. Like once a week to once every other
15 week.

16 Q. Dr. Varughese, during the time that
17 you were employed at Mount Sinai did you
18 tape-record some conversations you had?

19 A. Yes.

20 Q. How many did you tape-record?

21 A. Well, I tape-recorded several
22 conversations.

23 Q. Two, three, four, five? How many?

24 A. Maybe like -- well, all the ones I
25 submitted to you. I don't know how many.

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1 Varughese

2 Q. When you were tape-recording these
3 conversations did the people who you were talking
4 to know that you were tape-recording?

5 A. No.

6 Q. Why did you tape-record them?

7 A. I tape-recorded the conversations
8 because of what was happening, and I felt that the
9 actions that were being taken against me were
10 punitive and malicious and I wanted to protect
11 myself and my reputation.

12 Because even Scott Barnett had said to
13 me, you know, it's going to be our word against
14 yours. Like no one is ever going to believe you.
15 So that's why.

16 Q. I take it that at some point you had
17 the recordings transcribed?

18 A. Right. I hired some services and I
19 had it transcribed, but they, I don't know, I
20 mean, I think they did their best.

21 Q. And let me show you a document.

22 MR. McEVROY: We can mark as 65.
(Defendants' Exhibit 65, some 95 pages
24 of transcripts of the conversations that the
25 witness purportedly tape-recorded while at

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1 Varughese

2 Mount Sinai, marked for identification, this
3 date.)

4 Q. If you would look through those and
5 then I will ask you a few questions about them,
6 and while you're doing that I will take a quick
7 break.

8 (A recess was taken from 2:52 p.m. to
9 2:57 p.m.)

10 BY MR. McEVROY:

11 Q. You're free to read all 95 pages if
12 you like, but do you recognize what these are?

13 A. Yes.

14 Q. Tell me what this document is.

15 A. These were just some transcriptions of
16 the recordings.

17 Q. So these are the transcripts that you
18 had prepared of the conversations that you
19 tape-recorded while you were at Mount Sinai.

20 A. Yes.

21 Q. Now, if you look at them, like if you
22 compare the first group, say from pages 1261 to
23 1281, they're kind of in one font and one point
24 size and then we get to 1282, the point size and
25 the font changes, and that's true kind of

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1 Varughese

2 throughout the document.

3 Were all these transcripts prepared by
4 the same transcription service?

5 A. No.

6 Q. Were they prepared by different
7 transcription services?

8 A. Yes, several different.

9 Q. And is that the explanation for why
10 they appear to be different in terms of format?

11 A. Yes, I think so.

12 Q. OK. Dr. Varughese, if you flip
13 through them, if you look at the first page, where
14 it says, the third time Ms. Tiger-Paillex's name
15 appears, there is a section there that's bolded
16 and underlined. Do you see that? First page. Do
17 you see it?

18 A. Yes.

19 Q. Who did that bolding and the
20 underlining? Was that the transcription service
21 or was that you?

22 A. No, I did that when I was reading the
23 transcription.

24 Q. What I'm trying to understand is, I
25 take it that you received the transcript from the

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1 Varughese

2 transcription company without any bolding and
3 underlining.

4 A. Right.

5 Q. How did you go about bolding and
6 underlining it?

7 A. Oh, I was reviewing it and I just
8 bolded it and underlined it.

9 Q. Did they send it to you in some format
10 that lets you go in and make changes to it?

11 A. Well, they sent it to me in Word.
12 Yes.

13 Q. So you had a Word document that you
14 could put up on your computer and you went through
15 it and bolded and highlighted certain portions of
16 it.

17 A. Yes.

18 Q. Why did you bold and underline various
19 portions of these transcripts?

20 A. For emphasis.

21 Q. What were you emphasizing?

22 A. Just the various variety of points
23 that I had been making all along and just to point
24 out that I wasn't lying and being honest.

25 Q. I'm sorry?

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1 Varughese

2 A. I wasn't lying and I was being honest
3 about what I was saying.

4 Q. Any other reason why you bolded and
5 underlined certain portions of this?

6 A. For emphasis.

7 Q. Yes, that's what bolding and
8 underlining is, emphasis. I'm asking you what it
9 is you were trying to emphasize other than what
10 you've already told me.

11 A. Simply what was said, what the
12 response was, or what the commentary was made to
13 me or what my response was.

14 Q. Are the parts that you didn't bold,
15 did you consider them sort of less important than
16 the parts that you did bold?

17 MR. WRONKO: Form objection.

18 A. Um, it's the conversation. I mean,
19 you can take what you want out of it.

20 Q. I want to know what you took out of
21 it.

22 A. What I took out of it? Well, I mean,
23 I don't bold certain things. I don't bold when
24 people are explaining, you know, what it is
25 they're talking about. But I bolded something

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1 Varughese

2 that said that it would be somewhat relevant to
3 the case. I bolded. I think maybe if I thought
4 it was relevant in that situation I bolded it.

5 Q. So let me ask you just a couple of
6 examples so I understand. Do you see on the first
7 page?

8 A. Yes.

9 Q. If you go down towards the bottom. If
10 you go up four from the bottom where it says
11 "Caryn Tiger-Paillex" it starts with "Then
12 yesterday"?

13 A. Yes.

14 Q. You bolded "Shema" twice. Right?

15 A. Oh, I didn't -- I think maybe they
16 bolded, I mean, I don't know if I bolded it or
17 if -- that may have been like just bolded -- I
18 don't know if I bolded it or....

19 Q. If you turn to page 1291, Bates stamp
20 number 1291.

21 A. OK.

22 Q. Do you have that page?

23 A. Yes.

24 Q. Do you see there's the long quote of
25 Dr. Firpo. The beginning of the second paragraph

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1 Varughese

2 it says, "I came to Washington. I've been there
3 10 years," is Dr. Firpo speaking. Bolded, "I came
4 to Washington. I've been there 10 years."

5 Why did you want to emphasize that
6 Dr. Firpo said that?

7 A. Well, he had said that he wasn't
8 working with residents or residency program for
9 over ten years since I guess he left his -- or he
10 got fired from his former job. So he said that he
11 was working on policy and stuff to me before. And
12 he reiterates how he has all this experience, he
13 knows all the guidelines, then he says he doesn't
14 know all the guidelines and then he quotes
15 parliamentary procedure. I mean, it makes me
16 question his mental health frankly.

17 Q. And then go to page 1330. Are you
18 there?

19 And you see towards the bottom bolded
20 Scott Barnett saying, "No, I mean, no, it's all
21 right to -- all I'm saying is there's a hierarchy
22 in the world and sometimes you hit [indiscernible]
23 there but sometimes you get yelled at by your
24 boss."

25 You bolded that. Why did you want to

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Varughese

1 emphasize that statement by Dr. Barnett?

2 **A.** Because this is just, I mean, I'm
3 discussing the problems I'm having with the
4 department and them not treating me fairly and he
5 wants to go on about how you get yelled at by
6 bosses and hierarchy and that's not even what I'm
7 talking about.

8 I mean, he has a certain perspective
9 and world view that's sort of highlighted there.
10 You know.

11 **Q.** And you also highlighted,
12 Dr. Varughese, things that you said. So if you
13 look at page 1283, sort of in the middle of the
14 page you highlight, or not highlight, you bolded:
15 Actually, it was initially very abrupt because she
16 only got that requirement list like three days in
17 or four days in.

18 Then there's an exchange between you
19 and Dr. Firpo and then you say: OK, well, I
20 wasn't aware of that particular document. I just
21 thought that, I mean, she had it, but she didn't
22 give it to me till Thursday. Then she took off
23 Friday and she was working, but she wasn't there.

24 First of all, why did you highlight
25 **Computer Reporting NYC Inc.**
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Varughese

1 anything that you said? Why did you want to
2 emphasize things that you said?

3 **A.** Because this is what I've been saying
4 all along. People think that I'm just, you know,
5 making up stuff, but I'm not. Like I've been
6 saying this since August -- when was this meeting?
7 August 17th of 2011, and I'm telling him the
8 problems I'm having with Dr. Najfeld and what had
9 occurred on that rotation.

10 And Dr. Firpo is aware that she did
11 not go over the requirements for cytogenetics
12 until nearly halfway through this two-week
13 rotation.

14 **Q.** I notice that in some places, like
15 here, you've bolded it, but didn't underline it.
16 But in other places you bolded and underlined.
17 Was there any reason for that or was it just sort
18 of --

19 **A.** Well, I received all these things at
20 different times.

21 **Q.** So there's no significance to the fact
22 that some are underlined and some are not. OK.

23 Two more things, Dr. Varughese, and
24 then I think we're done for today.

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Varughese

1 You may remember that I think on the
2 last day of your deposition there were questions I
3 asked you, I think about what information people
4 had or knew about your case. And I said to you,
5 if there's something new, tell me. But if you've
6 already testified to it, don't repeat it because
7 it's already in the record.

8 And I would ask you to do the same
9 thing with what I'm about to ask you. Mr. Wronko
10 may want to chime in on that.

11 You have a claim in your case for a
12 hostile work environment. And you have obviously
13 testified at some length about what happened to
14 you and how you felt about it, who did it, et
15 cetera.

16 So if you've told me everything that
17 you believe forms the basis of your claim for a
18 hostile work environment, then just tell me that
19 you've already told me everything and you will
20 have answered the question. If there's things
21 that you haven't told me that happened, that you
22 think contributed to a hostile work environment,
23 then tell me that. But I don't want you to have
24 to repeat things you have already said.

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Varughese

1 **MR. WRONKO:** So in answering the
2 question about hostile work environment you
3 can reference your prior testimony over the
4 numbers of days you have been here.
5 Mr. McEvoy is really just looking for
6 anything else that you have not testified to
7 that you would be asserting a claim under
8 hostile work environment forward.

9 **A.** I think I testified to various issues
10 that I thought also comprise the hostile work
11 environment.

12 **Q.** In the same question you also have a
13 claim for what's known as aiding and abetting
14 liability. And that's a legal term for what
15 Dr. Cordon-Cardo, Dr. Firpo, Dr. Lento did that
16 sort of aided and assisted Mount Sinai in the
17 discrimination and retaliation, breach of
18 contract, the claims you have against them.

19 And again, we've had a lot of
20 testimony about Dr. Firpo, Dr. Cordon-Cardo and
21 Dr. Lento. So again, if you have already
22 testified, and consistent with Mr. Wronko's
23 direction, if you have already told me everything
24 that those individuals did to assist the hospital

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<p style="text-align: right;">1081</p> <p>1 Varughese</p> <p>2 or aid the hospital in discriminating against you</p> <p>3 or retaliating against you, just tell me that.</p> <p>4 If there's other things that they did</p> <p>5 that you haven't told me about, then you should</p> <p>6 tell me those now. So is there anything new that</p> <p>7 you haven't already told?</p> <p>8 MR. WRONKO: And I reference the same</p> <p>9 instruction I gave.</p> <p>10 A. Well, I think Scott Barnett and Ira</p> <p>11 Bleiweiss both solicited negative evaluations of</p> <p>12 me and I think they were forcing people to say and</p> <p>13 write things about me.</p> <p>14 Q. I remember your telling me that.</p> <p>15 A. Well....</p> <p>16 MR. WRONKO: Just to repeat my</p> <p>17 instruction, you're not being asked to</p> <p>18 repeat everything that you've already</p> <p>19 testified to. You're just being asked</p> <p>20 whether there's anything else that you have</p> <p>21 not already testified to.</p> <p>22 A. OK. That's it.</p> <p>23 MR. McEVOY: Let me just mark a few</p> <p>24 documents as exhibits.</p> <p>25 (Defendants' Exhibit 66, first amended</p> <p style="text-align: center;">Computer Reporting NYC Inc. (212) 986-1344</p>	<p style="text-align: right;">1083</p> <p>1 Varughese</p> <p>2 MS. SAUER: It's Exhibit 58.</p> <p>3 MR. McEVOY: Dr. Varughese, I don't</p> <p>4 have any more questions for you. But I</p> <p>5 can't close the deposition yet because we</p> <p>6 are still waiting to get your medical</p> <p>7 records which Mr. Wronko is endeavoring to</p> <p>8 do, I gather has had some success and</p> <p>9 encountered some problems. So once he gets</p> <p>10 those and produces them, then I may or may</p> <p>11 not have questions for you about them.</p> <p>12 But pending that potential -- right,</p> <p>13 Mr. Wronko? Correct?</p> <p>14 MR. WRONKO: Well, that's correct in</p> <p>15 terms of what your position is.</p> <p>16 MR. McEVOY: Do you have any different</p> <p>17 view about that?</p> <p>18 MR. WRONKO: I have to see the medical</p> <p>19 records. As I've already represented to</p> <p>20 you, I've seen Mount Sinai's medical</p> <p>21 records, one of which is a drug test, which</p> <p>22 indicates that it came back negative.</p> <p>23 Another is when Dr. Varughese was pricked</p> <p>24 and had to go I think for a tetanus shot.</p> <p>25 So if it's medical records like that,</p> <p style="text-align: center;">Computer Reporting NYC Inc. (212) 986-1344</p>
<p style="text-align: right;">1082</p> <p>1 Varughese</p> <p>2 complaint and jury demand, marked for</p> <p>3 identification, this date.)</p> <p>4 Q. Is this a copy of the first amended</p> <p>5 complaint in this case?</p> <p>6 A. Yes.</p> <p>7 MR. McEVOY: Let's mark this as</p> <p>8 Exhibit 67.</p> <p>9 (Defendants' Exhibit 67, copy of Rule</p> <p>10 26 disclosures, marked for identification,</p> <p>11 this date.)</p> <p>12 Q. Dr. Varughese, is this a copy of the</p> <p>13 Rule 26 disclosures that Mr. Wronko provided in</p> <p>14 this case?</p> <p>15 A. Yes.</p> <p>16 MR. McEVOY: And this is the</p> <p>17 interrogatory responses. I don't have an</p> <p>18 extra copy of that.</p> <p>19 Q. Take a look at that, Dr. Varughese.</p> <p>20 MR. WRONKO: I think you marked it</p> <p>21 already.</p> <p>22 MR. McEVOY: Did I?</p> <p>23 MR. WRONKO: Yes.</p> <p>24 MR. McEVOY: Never mind. Give it back</p> <p>25 to me. My mistake.</p> <p style="text-align: center;">Computer Reporting NYC Inc. (212) 986-1344</p>	<p style="text-align: right;">1084</p> <p>1 Varughese</p> <p>2 I really don't see a basis to come back here</p> <p>3 because it's not -- I have to see the</p> <p>4 records.</p> <p>5 MR. McEVOY: OK, so just --</p> <p>6 MR. WRONKO: Because I think it abides</p> <p>7 the event.</p> <p>8 MR. McEVOY: Here is the issue.</p> <p>9 Normally the authorization for the release</p> <p>10 of medical records would be given to me and</p> <p>11 I will retain the records. Mr. Wronko asked</p> <p>12 me if I would agree to allow him to retain</p> <p>13 the records to address certain concerns that</p> <p>14 Dr. Varughese had about what those records</p> <p>15 might contain and I agreed to follow that</p> <p>16 procedure.</p> <p>17 True? Right? That's what we've</p> <p>18 agreed to do?</p> <p>19 MR. WRONKO: Correct. I've sent out</p> <p>20 authorizations. I've indicated that I have</p> <p>21 had some problems with some providers that</p> <p>22 will likely ultimately lead to me having to</p> <p>23 issue subpoenas to get those records.</p> <p>24 MR. McEVOY: I need to review I guess</p> <p>25 just what has been revealed in the</p> <p style="text-align: center;">Computer Reporting NYC Inc. (212) 986-1344</p>

Errata Sheet

Subject: Transcript of deposition day #5 of plaintiff, Dr. Leena Varughese, which was conducted on August 7, 2013

PAGE	LINE	CORRECTION
934	8	Correct "No." to "Yes."
948	5	Correct "by" to "for"
949	23	Correct "an" to "any"
962	4	Correct "Reck Warrren" to "Recavarren"
962	7	Correct "Smothers" to "Smethurst"
962	13	Correct "Zheng" to "Zhang"
962	16	Correct "western" to "Westfield"
963	20	Correct "Allen" to "Alan"
963	24	Correct "at" to "to"
978	12	Correct "know" to "knew"
977	21	Correct "is" to "are"
982	20	Correct "willy nilly without" to "willy-nilly statements without"
983	20	Correct "That was not the case." to "Dr. Najfeld statements were not the case."
984	18	Correct "because my services" to "at work"
988	19	Correct "
993	2	Correct "Fife" to "Fyfe"
994	4	Correct "Fife" to "Fyfe"
994	10	Correct "Fife" to "Fyfe"
994	20	Correct "Fife" to "Fyfe"
995	8	Correct "Fife" to "Fyfe"
996	16	Correct "Fife" to "Fyfe"